

Arizona Notary Public Reference Manual



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Secretary of State

August 2004

This manual contains: a question-and-answer section; notary laws; instructions for completing a notary application form; an application form; name change form and an index.

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PREFACE

The Arizona notary law was amended in 1996, 1997, 1999, 2000, and 2004. The 1996 amendments comprised the first major revisions of the notary law in Arizona in more than 50 years. Rules, effective August 25, 2004, are included in this manual.

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CHAPTER 1

APPLYING TO BECOME A NOTARY PUBLIC

101. What is a Notary Public?

An Arizona Notary Public is a public officer commissioned by the Secretary of State to perform notarial acts. A Notary is an impartial witness. (A.R.S. §§ 38-294, 41-313(9), and 41-328(B))

102. Can anybody become a Notary Public? What are the requirements for becoming an Arizona Notary Public?

To become an Arizona Notary Public, you must meet the following requirements:

- You must be an Arizona resident;
- You must not have had an Arizona notary commission revoked within four years of your application;
- You must be at least 18 years old; and
- You must not have been convicted of a felony unless your civil rights have been restored.

If you meet these requirements, you may be eligible to become an Arizona Notary Public. When you sign your application form, you are attesting that you meet these requirements. If we find that you do not meet these requirements, we may refuse to issue you a Notary commission or we may revoke your Notary commission. Additionally, misstating information on a notary application may result in a denial or revocation of your commission. (A.R.S. § 41-330(A)(1))

103. You say I have to be an Arizona resident. Does that mean I have to be a citizen?

No. You can be an Arizona Notary Public if you are not a U.S. citizen but you must be an Arizona resident for tax purposes. That means you must claim your Arizona residence as your primary residence on state and federal tax forms. (Attorney General Opinion 78-119)

104. How do I know if I'm considered an Arizona resident?

In the context of your Notary Public commission, you are considered an Arizona resident if your primary residence or domicile is in Arizona. A person can have only one primary residence at any time. The following would indicate that Arizona is your primary residence:

- If you live within the borders of Arizona and claim your Arizona residence as your primary residence for tax purposes (that is, you declare it on your state and federal tax returns as your primary residence); or
- If you are currently registered to vote in Arizona.

The fact that you are out of this state for a temporary or transitory purpose would not defeat or nullify your Arizona residency. On the other hand, if you are in Arizona for a temporary or transitory purpose, Arizona would not be your primary residence. (A.R.S. § 41-312(E)(2))

105. What if I have two primary residences because I spend six months in Arizona and six months at my other residence?

You must claim one residence as your primary residence for tax purposes. It is that residence that will determine whether you qualify to be an Arizona notary public.

106. What do I need to do to become an Arizona Notary Public?

Read this manual, fill out the application form and mail the application to the Secretary of State's Office at the address on the form.

Make sure you enclose a check or money order for \$25 made payable to SECRETARY OF STATE. You must also purchase a \$5,000 notary bond (see the Chapter on bonds for more information) and send it to the Clerk of the Superior Court in your county of residence along with a check or money order for \$18 made payable to the CLERK OF THE SUPERIOR COURT. You can speed up the process if you also send a copy of your bond to the Secretary of State's Office at the time you send us your application form. (A.R.S. §§ 41-126(A)(2), 41-312(B), 41-315, and 12-284)

107. Where do I get an application form to become an Arizona Notary Public?

You can find an application form in the back of this booklet. It is printed on perforated paper so that you can easily tear it out from the booklet. If this booklet has no application form, you can request one by calling the Secretary of State's Office. You can also complete an application form online at www.azsos.gov.

108. Okay. I've got an application form. Now what do I do?

MAKE SURE you PRINT LEGIBLY or TYPE all information so that it can be read. If we cannot read your application form, or any portion of your application form, it will be returned to you. This will delay your Notary commission.

In the box near the top of the page, check the appropriate blank for a new appointment or a reappointment. If you are currently commissioned you would mark "reappointment" and list the name (first, middle, last) under which you are currently commissioned. If you do not presently hold a notary commission but have been commissioned in the past you would also mark "reappointment" and list the name (first, middle, last) under which you received your last commission.

PERSONAL AND BUSINESS INFORMATION:

List the name under which you want to be commissioned. Place your last name first, followed by your first name and your middle name or initial. You do not necessarily have to be commissioned under your legal first or middle name or both, using your initials or a nickname, but we must have your legal surname (last name).

Always be consistent with your name. Be sure that your name is the same on the printed portion of the notary application and on the signature portion of the application, as well as on the bond. The name on your notary seal and signature on every notarization you perform should also be identical.

A social security number is required for your application to be processed. The last four digits of your social security number is the minimum number of digits accepted. Your social

security number is confidential and is only used for internal verification purposes.

On the line for your mailing address, list your address, a post office box number, mail drop, or other address. List also the city, the zip code, and the county in which the mailing address is.

Your home address must be the physical location of your residence. You MAY NOT list a P.O. Box number here or a mail drop or other address that is not your residence's physical address. Make sure you tell us the name of the city, the zip code, and the Arizona county in which you reside. (Note: This is for your county of residence, not country of residence. Please do not enter "U.S.") If you live in a rural area without street addresses, you must describe the location of your residence. We need your residence's physical location because this will help prove you are an Arizona resident.

Please list your social security number. This is used for identification purposes only when two or more notaries have the same name.

List your home telephone number, including the area code, even if the number is unlisted. This information is confidential and will not be released.

List your gender.

List the name of your or your employer's business.

List your business address, city, and zip code.

List your business telephone.

You must give us a business address. If you operate your notary services from your home, then you would list your home address as your business address. If you leave the business name, address, and phone number blank, a Notary shall not perform the jurat and, if the application received in our office is missing this information, we will return it to you.

QUESTIONS SECTION:

Answer the questions by placing an X in the appropriate box.

AT THE BOTTOM OF THE FORM:

Lastly, make sure that you sign the application form after reading carefully the statement at the bottom just above where you will sign. Your signature on that line means that you are certifying that all information on the form is correct, that you meet the requirements for being an Arizona Notary Public, and that you have read and understand and swear to uphold the laws pertaining to Notaries Public. If you sign this application form knowing that some or all of the information is false, you may be convicted of perjury and your notary commission could be revoked.

Also, make sure that your signature contains the same names and initials as the printed version of your name on this application.

Take your application to an Arizona Notary Public who must perform a jurat.

Then send the completed application to the Secretary of State's Office along with a check, made payable to SECRETARY OF STATE, in the amount of \$25. It is recommended that you include a copy of your bond with your application form so that the dates can be matched.

If there are blanks present on your application form, a Notary Public shall not perform the jurat. If the Secretary of State's Office receives your application and it contains one or more

blanks, the Office will return it to you without issuing you a commission and, if a Notary has performed the jurat, may revoke the commission of that Notary. Additionally, remember to always list a business address. Leaving the business address portion of the application blank will result in the return of the application to you for completion.

109. Is all the information on my application form public information? Can it be given to someone other than myself upon request?

Only your name and your business address are public information. All other information on your application form is confidential. Only the notary, the notary's representative, or a law enforcement officer acting in an official capacity can view your application. (A.R.S. § 41-312(F))

110. If I live just across the border in another state but still have an Arizona address can I be an Arizona notary?

You cannot be an Arizona Notary Public because you do not live within the borders of Arizona.

111. Some states allow nonresidents to become notaries if they live outside the borders of the state but work in that state. Does Arizona allow this?

No. You must be an Arizona resident in order to be an Arizona notary public.

112. If I was convicted of a felony but have had my civil rights restored, may I become an Arizona Notary Public?

Perhaps. But you need to send a copy of the court papers restoring your civil rights at the same time you send your application to the Secretary of State's Office. Even if your civil rights have been restored, we may deny you a Notary commission if your felony conviction had a reasonable relationship to the functions of the office of Notary Public.

113. How long does it take to become a Notary Public?

From the time you mail your application until you receive your commission certificate in the mail, the entire process can take up to 4-6 weeks. Please keep in mind that the Secretary of State's office and the county Clerks of the Superior Court are both involved in the process.

114. Does it take as long to renew my Notary commission as it does to get a first-time Notary commission?

Yes. The process for renewing a commission and obtaining a commission for the first time are exactly the same.

115. Why does it take so long?

When we receive your Notary application, it usually is accompanied by 100-200 applications from other people in the same day's mail or received over the counter.

After opening the mail, we must attach all documents together for one application (the application form, the check or money order, and the copy of the bond if one is included). Then your application gets placed into a batch with up to 98 other applications for processing.

We must check each application against our computer database to see if the applicant has

previously been an Arizona Notary because some applicants fail to mark the box requesting this information. We then input the information from the application form into our computer data base. Once the information for the entire batch is entered, we generate a proofing sheet and check the proofing sheet information against the application forms to ensure that we have entered the information into the data base correctly.

After the material is proofed and corrections made, we print the commission certificates and the qualification forms. Then we sort the certificates and qualification forms by county, and send them to the respective Clerks of the Superior Court.

The whole process can take two to three weeks depending on the number of Notary applications received each day. Generally speaking, the process usually takes about two weeks in the Secretary of State's Office before the certificates and qualification forms are mailed to the respective counties.

The Clerk of the Superior Court in each county checks to see if you have filed your bond.

If you have not, the Clerk must notify you that you have 20 days in which to file your bond. After the Notary bonds have been filed and approved, the Clerk sends the commission certificates to the Notaries and the qualification forms to the Secretary of State.

When you receive your certificate, you are ready to obtain your official Notary seal and journal and begin notarizing signatures on documents.

116. What is a qualification form?

A qualification form is a document the Secretary of State's Office prepares and sends to the appropriate Clerk of the Superior Court along with each notary commission certificate.

After the county Clerk of the Superior Court verifies that the notary has filed an appropriate bond, the Clerk fills in the time and date of the filing of the notary's bond and sends the qualification form back to the Secretary of State's Office. We then update the data base to show that the notary is now qualified to serve as a notary public.

117. How much does it cost to become an Arizona Notary Public?

- You must pay a \$25 application processing/filing fee to the Secretary of State's Office and an \$18 bond filing fee to the Clerk of the Superior Court in your county of residence. (A.R.S. § 41-126(2) and 12-284)
- You must also buy a \$5000 bond, covering the four years of your commission. The cost of the bond varies. You may buy the bond from an insurance or bonding company. This bond protects the public if you notarize a document incorrectly or illegally. (A.R.S. §§ 41-312(B) and 41-315 and A.A.C. R2-12-1103)
- You may also wish to buy Errors and Omissions Insurance (commonly referred to as "E & O insurance") through your insurance or bonding company. This insurance would protect you if you inadvertently make an error or leave something off when notarizing a document. This insurance is not required and its cost may vary.
- You must also purchase a Notary seal and a Notary journal in which to record your notarial acts. (A.R.S. §§ 41-321 and 41-319)
- If you failed to notify us about a change in your mailing address or about a lost or stolen journal or seal within the time limits specified in A.R.S. § 41-323, you must also pay the \$25 civil penalty per offense before we will renew your commission. (A.R.S. § 41-323)

118. After I've sent the Secretary of State's Office and the Superior Court Clerk in my county the appropriate fees and then I decide I don't want to be a Notary after all, can I get a refund?

No. You cannot get a refund from the Secretary of State's Office. Once your application has been processed, we consider it processed and filed. Therefore, we have already used your processing/filing fee. The only exception to this occurs when you send us a duplicate application and application fee for the same Notary commission term. In this instance, we can process a refund for you for the duplicate application (but not the first one) but please note that the refund process may take several weeks.

For the policy the Clerk of the Superior Court in your county follows, please contact that office.

119. I am in the military. Can I become an Arizona Notary Public?

If you are a commissioned officer in the armed forces of the United States, you are federally commissioned to perform notarial functions for other members of the armed forces and their dependents. The Arizona Attorney General specified this in Opinion I97-011. People in the military other than commissioned officers wishing to become Arizona Notaries Public must meet the qualifications for Arizona Notaries Public and must apply just as if they were not in the military.

120. How long is my notary commission?

An Arizona Notary Public commission is a four-year term. This means that a commission beginning on June 1, 1999, will expire at midnight on May 31, 2003. (A.R.S. § 41-312(A))

121. How do I renew my commission?

The procedure for renewing your Notary commission is the same as if a notary is applying for the first time. About 60-90 days before your commission is due to expire, we will send you a renewal notice to the mailing address we have on file for you. You must submit your renewal application along with the \$25 filing fee to the Secretary of State's office. Additionally, you must buy a new bond that you must send to the Clerk of the Superior Court in your county of residence along with the appropriate filing fee. Please note: recently passed legislation (A.R.S. § 41-330 (D)) states "if a person has had a notary commission in this state revoked, the Secretary of State may refuse to appoint the person as a notary public for four years from the date of the revocation."

122. What if I don't receive my notary renewal notice?

We cannot guarantee the delivery of the notice once it leaves our office. However, if you have moved or your mailing or residence address has changed (whether or not you have moved) during your four-year notary term, you are **required by law to notify us within 30 days of the change by certified mail or other means providing a receipt. Failure to notify the Secretary of State's Office about your change of address will result in an assessment of a civil penalty of \$25 against you.** You must then pay the Secretary of State's Office the civil penalty before we can renew your commission. If you did not receive the renewal notice please contact us. We will be happy to send you another form or you may complete the notary application online on our web site at www.azsos.gov. (A.R.S. § 41-323)

123. If I forget to renew my commission in a timely manner, can I get the renewal expedited so that I don't miss time serving as a notary?

Because the notary application procedure is processed by two separate government agencies, there is no way for a commission application to be expedited. There are certain procedures within the Secretary of State's Office that we must follow. These procedures take time. Once we finish our work, we send the commission certificates and qualification sheets to the county Clerks of the Superior Court. After the Clerk has checked to make sure that the individual has filed an appropriate notary bond, the Clerk then sends the commission certificate to the notary and the qualification sheet to the Secretary of State. Each step takes time; thus expediting an application is not possible.

CHAPTER 2 DEFINITIONS

201. “Acknowledgment”

An acknowledgment is a notarial act in which a Notary certifies that a signer, whose identity is personally known to the Notary or is proven by satisfactory evidence, voluntarily signs a document for its stated purpose. The signer is not required to sign the document in the notary’s presence for an acknowledgment; the signer may pre-sign the document or may choose to sign it in your presence. Because you are attesting to the genuineness of the signature, you may not perform an acknowledgment that will be signed at a later time. Even if a document has been pre-signed, the document signer must be in the Notary’s presence at the time the Notary performs the notarization. (A.R.S. § 41-311(1))

202. “Commission” and “Commission certificate”

A commission certificate is the certificate issued by the Secretary of State’s Office to a Notary. The commission certificate is an individual’s proof that he or she has been commissioned as a Notary Public. (A.R.S. § 41-311(2)) The commission certificate shows the Notary’s name as it appears on the application form, the notary’s commission number, the issuance date, and the expiration date of the commission, as well as the Secretary of State’s name and signature.

203. “Copy certification”

Copy certification is a notarial act in which the Notary certifies that the Notary made a photocopy of an original document that is neither a public record nor publicly recordable. (A.R.S. § 41-311(3))

204. “Credible person”

A credible person is a person who personally knows the signer and who either also personally knows the Notary or who presents satisfactory evidence of identity to the Notary. A “credible person” is also known as a “credible witness.” (A.R.S. § 41-311(b)(c))

205. “Financial or beneficial interest in the transaction”

You have financial interest in the transaction if you will gain (or lose) something of value in the transaction. You have beneficial interest in the transaction if the document will benefit you in some way. Family members are usually considered to have either a financial or beneficial interest in a transaction even if they are not specifically named in the document.

206. “Impartial witness”

An impartial witness must have no conflict of interest. This means that, as the Notary, you cannot be a “party to the transaction” or a “party to the instrument” and you cannot have any financial or beneficial interest in the transaction, no matter how small. (A.R.S. § 41-328(B))

207. “Incomplete document”

An incomplete document is a document that has not been signed where a signature line is provided or where other obvious blanks appear in the document, or that lacks a notarial certificate. (A.R.S. § 41-311(5))

208. “Jurat”

A jurat is a notarial act in which the Notary certifies that a signer, whose identity is personally known or is proven by satisfactory evidence, has made in the Notary’s presence a voluntary signature and has taken an oath or affirmation vouching for the truthfulness of the signed document. Some states refer to this as an affidavit. Anytime the words “sworn to before me”, “subscribed and sworn to before be”, or similar words appear in notarial language in the notarial certificate, you must perform a jurat. Because a signer is swearing/affirming that the information is true, there can be no blank spaces on a document. (A.R.S. § 41-311(6))

209. “Notarial Acts”

There are four notarial acts that a notary can perform in Arizona:

- Acknowledgments,
 - Jurats,
 - Copy Certifications, and
 - Oaths or Affirmations.
- (A.R.S. §§ 41-311(7) and 41-313(A))

210. “Notarial certificate”

A notarial certificate is the part of, or attachment to, a notarized document for completion by the Notary that bears the notary’s signature and seal, and states the facts that are attested to by the Notary in a particular notarization. (A.R.S. § 41-311(8)) The state and county where the notarization takes place is known as the “venue” and is also considered part of the notarial certificate.

211. “Notary Public”

A Notary Public is a public officer, commissioned by the Secretary of State to perform notarial acts. A Notary is authorized by state government to administer oaths and to attest to the authenticity of signatures. A Notary serves as an impartial witness. (A.R.S. §§ 41-311(9), 41-312, 41-328, and 38-294)

212. “Oath” or “Affirmation”

An oath or an affirmation is a notarial act or part of a notarial act in which a person made a vow in the presence of the Notary under penalty of perjury, with reference to a supreme being in the case of an oath. (A.R.S. § 41-311(10))

213. “Party to the instrument”

An instrument is the document, a signature on which you are notarizing. A party to the instrument is someone who is mentioned in the document either by name or by job title or classification or who would have some kind of beneficial or financial interest in the document. If you are a party to the instrument, then you have an interest in the transaction and are no longer an impartial witness; therefore you could not notarize a signature.

214. “Party to the transaction”

“Party to the instrument” means the same as “Party to the transaction”.

215. “Personal knowledge of the signer by the Notary”

Personal knowledge of the signer by the Notary means that the Notary has familiarity with

an individual resulting from interactions with that person over a sufficient time to eliminate reasonable doubt that the individual has the identity claimed.

216. “Satisfactory evidence of identity”

Satisfactory evidence of identity means:

- At least one current form of identification issued by the United States government, or a state, or tribal government containing the following:
 - The individual's photograph,
 - The individual's signature, and
 - The individual's written physical description that includes height, weight, color of hair, and color of eyes.
- Personal knowledge of the signer by the notary;
- The oath or affirmation of a credible person who is personally known to the notary and who personally knows the signer; or
- The oath or affirmation of a credible person who personally knows the individual and who provides satisfactory evidence of identity (A.R.S. § 41-311(11))

217. What is the difference between a “jurat” and an “acknowledgment”?

With an acknowledgment, the Notary may or may not watch the person voluntarily make the signature after the signer's identity is proven to the Notary by means of satisfactory evidence. Keep in mind that the signer must appear before you at the time you complete the acknowledgment.

With a jurat, the signer must also appear before you, AND you must place the signer under oath or affirmation before the signer signs the document. Only for jurats must the signer sign the document in the Notary's presence. Additionally, a jurat **must not** contain blanks.

SAMPLES OF NOTARIAL CERTIFICATES ACKNOWLEDGMENTS, JURATS, OATHS, AND AFFIRMATIONS

You may use the standard form for notarial certificates for acknowledgments as specified in the Uniform Recognition of Acknowledgments Act (A.R.S. § 33-501 et seq.). The forms below may also be used.

218. Acknowledgments

1. Acknowledgment where document signer is personally known by the Notary:

Formal wording:

State of Arizona)

County of _____)

On this _____ day of _____, 20____, before me personally appeared _____ (name of signer), whom I know personally, and acknowledged that he/she executed the same.

(seal)

Notary Public

Informal wording:

State of Arizona)

County of _____)

On _____ (date) _____,

_____ (name of signer), personally appeared before me, whom I know personally to be the person who signed the above/attached document and he/she proved he/she signed it.

(seal)

Notary Public

2. Acknowledgment where the document signer's identity is proven by a credible person whom the notary knows personally or whose identity was proved to the notary on the basis of satisfactory evidence of identity:

State of Arizona)
)
County of _____)

On this _____ day of _____, 20____, before me personally appeared _____(name of signer), whose identity was proved to me on the oath of _____(Name of credible person), a credible person by me duly sworn, and acknowledged that the signer signed the above/ attached document.

(seal)

Notary Public

3. Acknowledgment where the document signer's identity is proven by satisfactory evidence:

State of Arizona)
)
County of _____)

On this _____ day of _____, 20____, before me personally appeared _____ (name of signer), whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this document, and who acknowledged that he/she signed the above/attached document.

(seal)

Notary Public

220. Copy Certification

221. Sample Oaths

Sample Oaths

3. For a jurat where the signer is personally known to the notary (question to be answered):

“Do you swear or affirm that the contents of this document are true and correct? If so, please state ‘I do swear’ or ‘I do affirm.’”

4. For a jurat where the signer is personally known to the notary (signer to repeat after you):

“I, _____, swear or affirm that the contents of this document are true and correct.”

5. For a credible person personally known to the notary when the notarial act is an acknowledgment (question to be answered):

“Do you swear or affirm that the person appearing before me and who signed this document is the person he [or she] claims to be? If so, please state ‘I do swear’ or ‘I do affirm.’”

6. For a credible person personally known to the notary when the notarial act is an acknowledgment (credible person to repeat after you):

“I, _____, swear or affirm that the person appearing before you and who signed this document is the person he [or she] claims to be.”

7. For a credible person personally known to the notary when the notarial act is a jurat (question to be answered):

“Do you swear or affirm that the person appearing before me and who signed this document in my presence is the person he [or she] claims to be? If so, please state ‘I do swear’ or ‘I do affirm.’”

8. For a credible person personally known to the notary when the notarial act is a jurat (credible person to repeat after you):

“I, _____, swear or affirm that the person appearing before you and who signed this document in your presence is the person he [or she] claims to be.”

9. For a credible person not known to the notary when the notarial act is an acknowledgment (question to be answered):

“Do you swear or affirm that you are the person whose identification card(s) you presented to me and do you swear or affirm that the person appearing before me and who signed this document is the person he [or she] claims to be? If so, please state ‘I do swear’ or ‘I do affirm.’”

10. For a credible person not known to the notary when the notarial act is an acknowledgment (question to be answered):

"I, _____, swear or affirm that I am the person whose identification card(s) I presented to you and I swear or affirm that the person appearing before you and who signed this document is the person he [or she] claims to be."

11. For a credible person not known to the notary when the notarial act is a jurat (question to be answered):

"Do you swear or affirm that you are the person whose identification card(s) you presented to me and do you swear or affirm that the person appearing before me and who signed this document in my presence is the person he [or she] claims to be? If so, please state 'I do swear' or 'I do affirm.'"

12. For a credible person not known to the notary when the notarial act is a jurat (credible person to repeat after you):

"I, _____, swear or affirm that I am the person whose identification card(s) I presented to you and I swear or affirm that the person appearing before you and who signed this document in your presence is the person he [or she] claims to be."

If you give someone an oath of office, the language for the oath is usually prescribed either by statute or by the board, commission, or other body to which the person has been appointed or elected.

CHAPTER 3

GETTING DOWN TO BASICS

301. Why do documents need to be notarized?

Documents need to be notarized in order to try to prevent fraud, to prove the authenticity of the signature, and to prove that the signature was made willingly rather than under duress and where evidence of identification has been taken..

302. What does a notarization on a document prove?

A notarization proves that a Notary Public has taken all reasonable steps to verify a signer's identity before notarizing that person's signature. If a jurat is performed, the document signer also is required vouch for the truthfulness of the document.

303. How long is my notary commission?

An Arizona Notary Public commission is a four-year term. This means that a commission beginning on June 1, 1999, will expire at midnight on May 31, 2003. (A.R.S. § 41-312)

304. Can I still notarize documents if I move out of the county in which I was commissioned?

Yes. Arizona Notaries are commissioned in their county of residence at the time of commissioning. However, they may notarize throughout the entire state of Arizona. When you next renew your commission, you will be commissioned from your new county of residence. You would continue to use your seal even if the county is no longer correct because your bond is still filed at the Court Clerk's office in that county. (A.R.S. § 41-312)

305. What if I move out of state? Can I still notarize when I return to Arizona periodically?

A commission as an Arizona Notary is dependent on your status as an Arizona resident. If you move out of state, you would no longer be an Arizona resident. Therefore you would automatically vacate your office. You are then required to send, by certified mail or other means providing a receipt, your notary records to the County Recorder in the county in which you were commissioned. Furthermore, you are required to destroy your seal and you must notify the Governor in writing that you are resigning your commission. (You should also notify the Secretary of State, the Clerk of the Superior Court where your notary bond was filed, and your bonding company.) Even if you return to Arizona occasionally, once you move out of state, you no longer have your primary residence in Arizona and thus are not considered an Arizona resident. Therefore you could not perform notarial acts here.

306. Can I notarize anything before I receive my new certificate?

If you are a new Notary, you cannot perform any notarial acts until you have your seal. You must have your commission certificate before you can order your seal. Therefore you cannot notarize anything until you receive your new certificate and notary seal. (A.R.S. § 41-321)

If you are renewing a commission, you may continue to notarize until midnight of the expiration date of your current commission. You would not be qualified to perform notarial acts under your new commission until you receive your certificate because you must have your

certificate to order your new notary seal. (A.R.S. §§ 41-321)

Furthermore, you cannot notarize before receiving your seal because you are required by law to authenticate all official acts with your seal. You cannot order your Notary seal until you have received your Notary commission certificate because the vendor making your seal must see and keep a copy of your commission certificate. (A.R.S. §§ 41- 321 and 41-313(B)(3))

307. Why am I required to have a commission certificate?

Your commission certificate is your proof that you are a Notary. The fact that you have a notary journal and a notary seal is not proof that you are a Notary. You do not have to post your commission certificate, but you must keep it handy in case anyone ever asks you to prove that you are a Notary. (A.R.S. § 41-311(2))

308. When I receive my commission certificate, what do I do?

You will need to take a copy of your commission certificate to a stationery or office supply store or other vendor of rubber stamps to order your Notary seal. Please note that some vendors require you to bring in your original certificate, preferring to make their own copy of it for their files. Some bonding agents and professional notary organizations may also offer, as a service to their customers, the opportunity to purchase your Notary seal through the agent.

If your bonding agent uses an out-of-state vendor of notary seals to obtain your notary seal, that vendor would still require a copy of your commission certificate before making your notary seal. By making Arizona notary seals, whatever vendor the bonding agent uses would be bound by Arizona law and would need to receive, and keep on file for four years, a copy of your commission certificate before the vendor could make the seal. (A.R.S. § 41-321)

See Chapter 8 for more information on your notary seal.

You must also purchase a notary journal. Please see Chapter 7 for more information about your notary journal.

309. So now I have my certificate, my seal, and my notary journal. Can I now notarize documents?

Yes. You are all set to perform notarial acts.

310. Can I sign my name any way I want to when notarizing a signature?

No. You must sign your name as you did on your application and bond. The names in your signature (first and last names and any initials) must match the signature on your bond and on your application. If you submitted a copy of your bond with your application, we would notify you about any discrepancy between names or signatures or both. If you notarize a signature using “John Q. Public” but your application and bond say “John Quincy Public,” we would not be able to certify your notarization. When we certify your notarization, we must attest that you were duly commissioned as a notary when the notarization was performed and that the signature of the Notary on the document is indeed your signature. Therefore using a name that’s different from your application makes it impossible for us to attest to your signature. This could have a significant bearing if any document bearing a notarization you performed ends up in a court of law or must be sent to a foreign country. Additionally, because you performed an improper notarization your notary commission could be revoked.

311. How does a notary know when a signature must be notarized?

The document must contain a notarial certificate.(See examples in Chapter 2) If the document does not contain a notarial certificate but the individual wants his/her signature notarized, you must ask the individual which type of notarization he/she wants. You can then type or neatly handwrite this information onto the document.The individual requesting the notarization determines the type of notarial certificate.

312. Do I have to post my fees or my commission certificate?

You do not have to post your commission certificate, but you should keep it handy because it is your proof that you are a notary. However, A.R.S. § 38-412 requires notaries public to post a schedule of the fees they are allowed to charge in a conspicuous place.

313. My employer required me to be a notary. I am leaving that employment. My employer says that, because she paid the costs for commissioning me as a notary, my commission certificate, journals, and seal belong to her. Is that correct?

No. It makes no difference who paid the fees for you to become a notary. The state of Arizona commissioned you to be a notary public. Your seal, your commission, and your journals that contain only public records remain your property. (A.R.S. § 41-312(C))

314. I want to perform notarizations on my own time after work hours. However, my employer says he won't let me do that and said that, because he paid for my notary commission, I can only do notarizations during my work hours. Is this correct?

No. You can perform notarizations outside the workplace of your employer except during those times normally designated as your hours of duty for that employer. (A.R.S. § 41-312(C)(2))

315. I am a notary for my employer. I want to perform notarizations on my own time after work hours. However, my employer says that any money I receive for those notarizations belongs to him because he paid for my commission. Is this correct?

No. As stated in #314 above, you can perform notarizations outside the workplace of your employer except during those times normally designated as your hours of duty for that employer. All fees you receive for notarial services while not on duty remain your property. (A.R.S. § 41- 312(C)(2)) Please remember that the fees you charge and receive for notarial services on your own time constitute earned income and must be reported on state and federal taxes.

316. My employer says that I can only perform notarizations for customers of the company. When a person walked in the office yesterday, my employer wouldn't let me perform the notarization. Is this correct?

No. An employer of a notary may not limit the notary's services to customers or other persons designated by that employer. (A.R.S. § 41- 312(C)(3))

317. My employer paid for me to be commissioned as a notary. I am leaving that employment. My employer says she is going to cancel my notary commission because she paid for it. Can she do that?

No. As a notary public, you continue to serve until your commission expires, you resign your commission, you die, or the Secretary of State revokes your commission. An employer may not cancel the notary bond or notary commission of any notary who is an employee and who leaves that employment. (A.R.S. § 41-312(D))

318. I work for the City of Tucson. Can the city pay for me to be commissioned as a notary public?

Yes. The state or any of its political subdivisions may pay the fees and costs for the commissioning of a notary who is an employee of this state or any of its political subdivisions. The individual being commissioned must be required to perform notarial services in the course of the notary's employment. (A.R.S. § 41-312(G))

319. My mother was a Notary for many years. When she died, her will specified that I receive her commission and seal. Can I now notarize signatures?

No. Notary commissions are nontransferable. The commissions are only valid for the person named on the commission certificate.

CHAPTER 4

NOTARY BOND

401. Do I have to buy a bond before I can become a notary?

Yes. State law requires you to buy a surety bond before you receive your commission as a notary public and the rules of the Secretary of State's Office require the bond to be in the amount of \$5,000. (A.R.S. §§ 41-312 and 41-315 and A.A.C. R2-12-1103) The bond must remain in effect for the four years of your commission. If your bond is cancelled by your bonding or insurance company before the end of your four-year commission, the Secretary of State will revoke your commission.

402. Where do I buy the bond? How much will it cost me?

You must buy a notary bond from a licensed surety. (A.R.S. § 41-315(A)) Bonds may be purchased from a notary bonding company, an insurance company, or through a national notary organizations. Because prices vary, you may want to check with several companies or organizations before actually buying your bond. Please note, as stated in #412, that the State of Arizona does not designate an "official" bonding company.

403. Do I buy the bond before or after I send my application form to the Secretary of State?

Although you can buy the bond before or after you send your application to this Office, it is suggested that you buy the bond first. Send the original of the bond to the Clerk of the Superior Court in your county of residence along with the filing fee and, at the same time, send your application (must be the **original** of your application), a **copy** of your bond, and your filing fee to the Secretary of State's Office. Buying the bond first and sending us a copy will allow us to match the dates and will save you a lot of time and aggravation later on. (A.R.S. §§ 41-312(B) and 41-315) If you do not send a copy of your bond to us at the time you send us your application and processing/filing fee, we will not be able to match the beginning and expiration dates for your commission. In this instance, we would commission you with a commission start date the same as the date on which we enter your information into our computer data base or, if you are renewing a commission, the day after your current commission expires if that date is no more than 60 days in the future or 30 days past. If this date does not match the date on your bond, you may experience delays in receiving your commission, because the dates must match.

404. How old can the bond be for the Clerk of the Court to accept it?

The bond cannot be issued more that 60 days before or 30 days after the beginning date of the commission for which the bond was purchased. If you send a copy of your bond along with your application to the Secretary of State's Office and we discover that your bond dates do not fall within that 90-day window, we will try to alert you so that you can get a rider on your bond. Remember that the issue date of a bond may not be the same as the date the bond takes effect. The law states that the time limits apply to the date of issuance of a bond. (A.R.S. § 41-315(B))

405. What happens if you cannot use the dates on the bond?

We will attempt to contact you to let you know that the bond dates are incorrect if you send us a copy of your bond with your application. If we cannot reach you by telephone, we will send you a letter specifying that the dates on your bond were incorrect and that you need to get a rider for your bond with the correct dates (the letter will specify the dates) and file the rider with the Clerk of the Superior Court. For the procedure your county's Court Clerk follows, please contact the Clerk's office directly.

406. What if I choose not to buy my bond before I send you my application?

You may do that. If we process your application and a copy of your bond is not included, we will begin your commission on the date we process it or, if you are renewing your commission, the day after your current commission expires if the date is no more than 30 days past or 60 days in the future. We will send your commission certificate showing the dates we used to the Clerk of the Superior Court in your county of residence. By law, the Clerk is to notify you that the Clerk's office has received your certificate from the Secretary of State's Office. You then have 20 days to buy your bond and submit it to the Clerk's Office along with the appropriate filing fee.

407. The bond I am required to buy protects me if I inadvertently do something wrong, doesn't it?

No. The surety bond that you are required to buy before being commissioned as a notary protects the public for whom you are performing the notarizations. If you wish to protect yourself, you may wish to purchase Errors and Omissions Insurance (also called E&O Insurance). E&O insurance will protect you in the event your mistake is inadvertent.

Please note that, if you intentionally do something wrong when performing a notarization, nothing will protect you.

408. As a notary, am I considered to be a public official even though I am not elected? And if I am a public official, do I take an oath of office?

Yes, a Notary Public is a public official. You must take an oath of office before being commissioned as a notary. (A.R.S. § 41-312)

409. Is the oath of office given verbally?

No. The oath of office appears on your notary bond. You will sign your name under the oath of office indicating that you will abide by what it says. (A.R.S. § 38-233(B))

410. Do I have to buy a new bond when I apply for a renewal commission?

Yes. A notary bond is good for the four years of your notary commission. Thus, for every new commission you receive, you will have to purchase a new bond. (A.R.S. § 41-315)

411. Can I sign my name any way I want on the bond or does my signature have to match something?

Your signature on your notary bond **MUST** match the signature on your application form.

412. Does the State of Arizona designate an “official” bonding company?

No. The State of Arizona does not designate an “official” bonding company. However, one or more bonding companies may solicit your business and you might think, because of the wording of their material that they send to you, that a particular company has been designated as the “official” bonding company for Arizona. **DO NOT** be misled.

CHAPTER 5

SATISFACTORY EVIDENCE OF IDENTITY

501. What kinds of identification are satisfactory?

In Arizona, there are three ways that you can identify a signer. (A.R.S. § 41-311):

1. Personal Knowledge

You can use personal knowledge of the individual if you have known the individual for a sufficient length of time that you are assured that the individual has the identity claimed.

2. Valid Identification Card

- You can use an identification card issued by the United States government or a state, or tribal government that contains the individual's photo, signature, and written physical description. (A.R.S. § 41-311) The ID card must meet all these requirements; you cannot use one ID card that has some of the requirements and another one that has the other requirements. The written physical description must contain, at a minimum, the individual's height, weight, color of hair, and color of eyes. The identification card must be current.

3. Credible person

- If you do not know the signer and the signer doesn't have an identification card as described above, you can use a credible person to identify the signer. The credible person must be someone **whom you know** and who knows the signer. You must place the credible person under oath and have him or her swear or affirm that the signer has the identity claimed. The credible person must sign your journal and you must list in your journal the type of satisfactory evidence of identity used for the credible person, in this case personal knowledge. The signer must also sign your journal.
- If you do not know the signer and the signer doesn't have an identification card as described above, you can also use a credible person **whom you don't know** to identify the signer. The credible person, in this instance, must present you with satisfactory evidence of identity. You must place the credible person under oath and have him or her swear or affirm that the signer has the identity claimed. The credible person must sign your journal and you must list in your journal the type of satisfactory evidence of identity used for the credible person, in this case an identification card. The signer must also sign your journal.

502. What kinds of things can I look for on an identification card to determine if it's legitimate?

- Look at the type faces. If they do not match, the ID may be fraudulent.
- Look at the physical description, which must specify the individual's height, weight, color of hair, and color of eyes. Compare what is written to the physical characteristics of the person appearing before you.
- Look at the issuance date. All identification cards get some wear and tear on them (scratches, worn places). If the issuance date is old but the card looks brand new, the ID may be fraudulent.

- Look at the photo and run your finger over the edge of it. If the photo is raised, a new photo may have been laminated over the original one indicating a fraudulent ID.
- Look for obvious erasures or liquid correction fluid marks. These would be indications that the ID may be fraudulent.

503. Is there somewhere I can learn more about detecting false IDs?

Some police departments and sheriff's offices in Arizona offer classes. You should check with your local police department or sheriff's office to see if there is a class scheduled or whether you could arrange for an officer to come to your place of employment to offer this type of class.

504. If the document is pre-signed, how do I know the signer actually signed the document?

The signer must present you with satisfactory evidence of identity. If the signer is someone you know, presumably you would recognize the person's signature. If the signer is someone you do not know, that person must present an ID card that contains his/her signature. Even if the signer does not have an appropriate and acceptable ID card and uses a credible person, the signer still must sign your journal. You can then compare the signatures. If they look like they were signed by the same person, you can accept it and perform the acknowledgment. If they look different and you cannot be sure the signatures were made by the same person, you may have the signer sign the document again in your presence.

505. What is the best way to identify someone?

The best way to verify a signer's identity is to know the person yourself (personal knowledge). An "eyewitness" report is usually the strongest form of identification. When you verify a person's identity because of personal knowledge, you do not need to use witnesses or identification cards.

506. If I need to notarize the signature of someone who does not have a picture identification card, what do I do?

Use a credible person to establish the identity of the person without appropriate photo identification, as explained in #501. If the person without appropriate picture identification is a minor, find out if the minor is authorized to sign the document. It's also a good idea to have the signer print his/her name after the signer's signature on the document. If there is no credible person and the person has no picture identification issued by the United States government or a state or tribal government, you must refuse the notarization. (A.R.S. § 41-311)

507. How can a credible person verify a signer's identity?

A credible person must always know the signer. The notary must place the credible person under oath and the credible person must swear or affirm that the signer has the identity claimed. When using a credible person for identification purposes, both the signer and the credible person must sign your journal.

508. What is the procedure for accepting a credible person's verification of the signer?

If you know the individual serving as the credible person and you know that individual to be truthful, then you have established an unbroken chain of personal knowledge. That is, you

know the credible person and the credible person personally knows the signer and attests to that knowledge under oath. In addition, both the credible person and the signer must be present when you perform the notarization. If the individual serving as the credible person is someone unknown to you, then you must be willing to accept the identification card presented to you by that individual. Just as in the first instance, the credible person must know the signer personally; you must place the credible person under oath; and both the credible person and the signer must be present when you perform the notarization. In both instances, you must have both the signer and the credible person sign your journal.

509. When I must check someone's identification, what kind of identification should I ask for?

The identification you must ask for is current identification issued by the United States government or a state, or tribal government. (A.R.S. § 41-311) It must include the individual's photograph, signature and a physical description of the individual. In addition, the physical description must be in writing and must include, at a minimum, height, weight, color or hair, and color of eyes. One card must have all requirements; you cannot use one card with two of the three requirements and one card with the third requirement. Some specific types of identification cards you could accept, provided they meet all our statutory requirements, are the following:

- Driver's license
- Military ID
- State-issued ID card
- United States government or state agency ID card

510. Of the three ways of verifying a signer's identity, which one is the least effective and why?

The least effective method of verifying a signer's identity is by means of identification cards when you do not know the person and there is no credible witness whom both you and the signer know. Phony identification cards are proliferating in today's society. A Notary must take reasonable steps to examine the identification cards or papers when trying to verify a person's identity.

511. Is there anything I as a Notary should look for on identification cards? How can I know if an identification card or paper is legitimate?

You need to be alert to ways to check for falsified identification cards and other means of fraud:

- The identification cards the signer presents to you may be counterfeit if:
 - The bearer presents two or more forms of identification which are unusually similar in appearance or style;
 - The name of the agency issuing the card appears to be hand-typed or suspicious in any way;
 - The card's issue date and the wear and tear on the card are not consistent;
 - Words are misspelled;
 - Some of the textures or patterns don't look right; or
 - The person's picture is the same on two or more different forms of identification.
- A person may be an imposter if:

- Vital data is obscured or is unknown to the bearer;
- The person's identification cards all appear to be new; or
- The person is unwilling to give his/her fingerprint as a mark. (A fingerprint is not required under Arizona law and you may not refuse a notarization on this point alone.)
- The document presented for identification may have been altered if:
 - The type faces on the same identification card vary and don't match;
 - The signature does not match the bearer's signature on the document to be notarized;
 - The edges or thickness around the photo appear unusual;
 - Smudges, erasure smears, or discolorations obscure information; or
 - The identification is not normally laminated in plastic.

512. If I think the identification is not legitimate, can I refuse to perform the notarization?

Yes. If you think that the identification card is not legitimate, you have a responsibility to refuse to perform the notarization.

513. Is a credible witness the same as a credible person?

Yes. Some other states and jurisdictions use the term "credible witness". In Arizona, the correct term is "credible person".

CHAPTER 6

HOW TO PERFORM YOUR NOTARIAL DUTIES

601. As a Notary Public, what are my duties?

Your duties are specified in A.R.S. § 41-313. You can perform four different types of notarial acts when someone makes a reasonable request for you to do so. You are required to keep a journal of all your official acts. You are required to keep a notary seal imprinted with five specific things. And you are required to authenticate all your official acts with your official seal. Information about your journal and your seal appear in Chapters 7 and 8 respectively.

602. What are the four notarial acts?

The four notarial acts you can perform are acknowledgments, jurats, copy certifications, and oaths and affirmations. These terms are defined in Chapter 2. (A.R.S. § 41-313)

603. In some states, Notaries can perform marriages. Can I, as an Arizona Notary, perform marriages?

No. Notaries in Arizona are not allowed to perform marriage ceremonies.

604. How do I perform an acknowledgement?

For an acknowledgment, the signer must be in your presence and must present you with satisfactory evidence of identity. The signer could either bring in a document that he/she pre-signed or the signer could sign the document in your presence. The wording of the notarial certificate would be “Acknowledged before me...” Please refer to Chapter 2 for sample acknowledgment wording to use if the document does not already contain a notarial certificate and the signer has requested an acknowledgment.

After you have verified the signer’s identity, have the signer sign the document, if it is not already signed, and your journal and, if you wish, print his/her name and address. (If the signer does not print his/her name and address, then you must do it.) Compare the signature against the signature on the document. If they look similar, complete the acknowledgment and read the notarial certificate language. Once you have signed your name to the notarial certificate, you are attesting not only that the signature of the signer is genuine but that the notarial language is correct. Cross out any incorrect information, write the corrected information above it, and initial the changes. Then fill in all blanks in the notarial certificate. Sign your name. Affix your seal. The seal generally is affixed to the left of your signature.

605. If the document is pre-signed, how do I know the signer actually signed the document?

The signer must present you satisfactory evidence of identity. If the signer is someone you know, presumably you would recognize the person’s signature. If the signer is someone you do not know, that person must present an ID card that contains his/her signature. Even if the signer does not have an appropriate and acceptable ID card and uses a credible person, the signer must still sign your journal. You can then compare the signatures. If they look similar, you can accept it and perform the acknowledgment. If they look different and you cannot be sure the signatures were made by the same person, you may have the signer sign the document again in your presence.

606. What kinds of identification are satisfactory?

Refer to Chapter 5 for information on satisfactory evidence of identity.

607. How do I perform a jurat?

First, look at the document. If there are any blanks in the document, you must either have the signer fill in the information or use “n/a” as appropriate. You may not perform a jurat if the document has blanks. You must also be able to read enough of the document to be able to describe the document in your journal. This means that, if the document is printed in a foreign language, you must know enough of that foreign language to understand what type of a document it is.

Second, the signer must present you with satisfactory evidence of identity. If you must use a credible person, you must have the credible person present you with satisfactory evidence of identity. Then you must place the credible person under oath and have him/her swear or affirm that the signer has the identity claimed.

Third, you must place the signer under oath and have the signer swear or affirm that the contents of the document are true and correct. Then the person can sign the document.

Fourth, you must have the signer sign your journal and print his/her name and address (unless you choose to print the signer’s name and address yourself).

Fifth, if you use a credible person, the credible person must also sign your journal.

Sixth, you can fill out the notarial certificate, taking care to read it to ensure that the language is correct. Once you have signed your name to the notarial certificate, you are attesting not only that the signature of the signer is genuine but that the notarial language is correct. Cross out any incorrect information, write the corrected information above it, and initial the changes. Then sign your name and affix your seal. The seal is usually placed to the left of your signature.

608. How do I perform a copy certification?

You must first determine whether the document presented to you for copy certification is an original document. If it is original, then you must determine whether the document is a public record or is publicly recordable. If it is a public record or is publicly recordable, or if the document is not the original, you must refuse to perform the copy certification.

If the document is not a public record or publicly recordable, then you must physically make the photocopy. Examples of documents that are publicly recordable are: marriage licenses, birth or death certificates, divorce papers, court records or real estate deeds. If you do not have access to a photocopy machine, you must refuse to perform the copy certification. You cannot make a copy certification of a certified copy.

Make the photocopy and then write or type on the face of it the notarial language for a copy certification (see Chapter 14). Complete the notarial certificate, sign your name, and affix your seal. (A.R. S. § 41-311(3))

609. How do I place someone under oath?

Have the person raise his/her right hand and, if the oath is being administered to the document signer, ask one of the oaths below, or an adaptation of one of these oaths.

You may place someone under oath or affirmation in two different ways, depending on

whether the individual wishes to “swear” to the facts (oath) or “affirm” the facts (affirmation). The following are examples:

- “Do you swear that you are the person whose identification was presented to me and do you swear that the statements in this document are true and correct? If so, please state ‘I so swear’.” (Oath)
- “Do you swear that the individual signing this document has the identity claimed? If so, please state ‘I so swear’.” (Oath of credible person)
- “Do you affirm that you are the person whose identification was presented and do you affirm that the statements in this document are true? If so, please state ‘I so affirm’.” (Affirmation)
- “Do you affirm that you personally know the true identity of this individual? If so, please state ‘I so affirm’.” (Affirmation of credible person)
- Note that, rather than figuring out ahead of time whether the person will swear or affirm, you can combine both forms into one oath: “Do you swear or affirm that you are the person whose identification you presented to me and do you swear or affirm that the statements in this document are true and correct? If so, please state ‘I so swear’ or ‘I so affirm’.”

610. What’s the difference between “swearing” and “affirming”?

For an oath, the person is swearing to a supreme being, for example God. If the individual does not believe in a supreme being or doesn’t want to swear to a supreme being, the person makes an affirmation. The person being placed under oath must make the decision about which type is appropriate. A violation of either an oath or an affirmation constitutes perjury.

611. Can I notarize documents anywhere in Arizona?

Yes. Although a Notary commission is issued to a Notary public and specifies the county in which the Notary resided at the time the commission was issued, the Notary may perform notarizations throughout the state of Arizona.

612. On most documents, the notarial language has a space for the state and the county. What do I fill in here?

You would fill in the state as “Arizona”; the county is the Arizona county in which you are performing the notarization. This is known as the venue information.

Notaries in Arizona are commissioned in their counties of residence. However, they may perform notarizations throughout Arizona. Thus the county specified in the venue information may not be the same county specified on your notarial seal.

If you are commissioned in one county and move to another county, your seal is still good until next you renew your commission. For more information on notary seals, please refer to Chapter 8.

613. Can I notarize documents outside the state of Arizona? I am an Arizona Notary but I work across the state line in Nevada.

You may only notarize documents within the state boundaries of Arizona. Even if an Arizona resident brings you an Arizona document to notarize because you are an Arizona notary, if you are not standing or sitting within the borders of Arizona, you cannot perform the notarial act.

614. Am I required to notarize documents every time someone asks me?

You may not refuse service to somebody who makes a reasonable and lawful request for a notarization. Remember that you must treat all people fairly and equally. However, there may be times when you can legitimately refuse to perform a notarization. The following are examples of when you could refuse a notarization:

- If you feel the signer is being coerced or forced into signing the document;
- If the signer cannot produce satisfactory evidence of identity and a credible witness is not available.
- If you feel that the signer is not in full control of his/her mental faculties and does not understand what he/she is doing.
- If you feel the ID card presented to you is fraudulent.
- If the ID card presented to you is not current.

615. If I refuse a notarization, how can I be sure that the person I refused won't try to sue me because I refused the notarization?

You can't. However, in order to protect yourself, you may want to make a notation in your journal about the refusal and your grounds for doing so. Other notaries have been protected by doing this. There is no guarantee that a journal entry would exonerate you but, if you don't make a journal entry, you have no protection.

616. How do I know if the signature is being made willingly?

Engage the signer in conversation. You can ask the person some key questions. Watch for pressure being exerted by family members or others present to witness the notarization.

617. If I decide that the signer is being coerced into signing the document, what do I do?

Refuse to notarize the signature.

618. How can I help prevent fraud from happening after I have notarized a document?

The best way to prevent fraud from occurring after you have notarized a document is to watch for three things:

- Blanks or gaps in the text. If you are performing a jurat, the document cannot be incomplete.
- Unsigned signature lines or blocks; and
- No notarial certificate on the document or an attached document.

619. What can I do when someone presents a document to me for notarization and I notice several blank lines in the document?

If the notarial language indicates the notarization is a jurat, you **MUST** refuse to perform the jurat on an incomplete document. You might have the signer fill in the blanks or write "N/A" before you perform the jurat. In the case of an acknowledgment, you could notarize a document containing blanks, but it's still not a good idea. Blanks in a document indicate that the document has the possibility of being altered after you notarize the signer's signature. (A.R.S. § 41-328(A))

620. Can I notarize a signature that was placed on the document before it was brought to me for notarization?

Yes and no, depending on the type of notarial act.

For an acknowledgment, the document could be signed before it was brought to you for notarization. The signer must appear before you at the time you perform the notarization and provide satisfactory evidence of identity. You must check the signatures on the form of identity (if you do not personally know the person), in your journal, and on the document to try to determine if the signatures were made by the same person. (A.R.S. § 41- 311)

For a jurat, the person must appear before the notary and be placed under oath before signing the document, and the signer must sign the document in the notary's presence.

621. Can a Notary perform a notarization on a document and also serve as a witness to the signing of that document?

No. Unless the language on the document specifically states that the Notary is also the witness, you cannot sign the document as both a witness and a Notary.

622. Can I notarize my own signature?

No. (A.R.S. § 41-328(B))

623. Can I notarize for a family member?

Arizona law states that you cannot notarize for anyone related to you by marriage or adoption. The law also states that a notary is an impartial witness. (A.R.S. § 41-328(B)) While the provision specifying that you cannot notarize for anyone related to you by marriage or adoption allows you to notarize for your brother or sister but not your brother- in-law or sister-in-law, many courts have found that a sibling relationship implies some financial or beneficial interest in transactions involving other family members thereby negating an argument for impartiality. Just because the law allows you to notarize for blood relatives, it is not a recommended action. (A.R.S. § 41-328(B))

624. If I am asked to certify a document for someone, can I do so?

No. As an Arizona Notary, you acknowledge the signatures on documents but you cannot certify the validity of the document or any of its contents.

625. Can I certify a photocopy of an original document?

You may certify that a photocopy is a true and correct copy of the original only if you personally make the photocopy from the original document. You may not perform a copy certification on any document that is a public record or that is publicly recordable. (A.R.S. § 41-311)

626. What kinds of documents are public records or are publicly recordable?

Some of these types of documents include:

- Birth certificates
- Death certificates
- Divorce papers
- Marriage licenses

- Court records
- Real estate deeds

627. Why perform a copy certification; what does it prove?

A copy certification proves that the Notary made a photocopy from the original document and thus the copy is a true and correct copy. Sometimes the party requesting the certified copy does not need the original but want to ensure that what is sent is a true and correct copy of the original.

628. Can I prepare a document for someone and then notarize it?

Generally no. Unless you are an attorney or a certified document preparer, do not prepare documents yourself. The State Bar of Arizona certifies document preparers and may be contacted at 602-364-1308 for more information regarding training to be certified.

629. What is an attestation and do I have to use it?

Every time you perform a notarial act, you are attesting that the person appeared before you and that the person signed the document. The description of what you witnessed is commonly known as an attestation or a notarial certificate and must appear on every document you notarize.

630. Can I notarize a thumb print or an “X” mark?

Yes. A “signature” or “subscription” includes any kind of mark when a person cannot write, providing that the person’s name is written near the mark and the mark is witnessed by a person who writes his or her own name as witness.

If a person who cannot write is either known to the Notary or can provide sufficient evidence of his identity to the Notary, the Notary can then write the person’s name near his or her mark.

Otherwise an additional witness who knows the person who cannot write would be needed to identify the person making the mark and the Notary would notarize both the making of the mark and the writing of that person’s name by the identifying witness.

631. Can I use a rubber stamp for my signature when I perform an acknowledgment, a jurat, or a copy certification?

No. The law says you must sign the notarial certificate, unless you have a physical handicap that would prevent you from signing your name. In this instance, the rubber stamp signature would have to be the one that appeared on the notary application and on the notary bond. (A.R.S. § 41-313 (B))

632. Can I use a separate sheet of paper on which I place the notarial certificate, my signature, and my seal and simply attach it to the document?

It is best to keep the notarial certificate, your signature, and your official seal on the same page as the signatures being witnessed or acknowledged so that the page you have signed notarizing a signature cannot be fraudulently attached to another document. If it is necessary to use an additional page for the notarization, you may want to extend part of the original document to that page so that the signatures being notarized appear above the notarial certificate. You should also describe, as completely as possible, the document to which you

are attaching the separate certificate in order to prevent the possibility of someone detaching the notarial certificate from that document and attaching it to another document. It is a good idea to number your pages.

633. If the document has preprinted notarial wording, I'll be safe in using it. Right?

Not necessarily. You must always read the notarial language (notarial certificate). Sometimes the document was prepared in another state or jurisdiction using a preprinted notarial certificate that may not be legal in Arizona. When you sign the document as a Notary, you are held accountable for every word in the notarial certificate. If any part of the notarial certificate is incorrect, either cross out the incorrect words with ink or cross out the entire wording and type in the correct wording. Remember to initial all changes.

634. If the preprinted notarial information on the document is incorrect, can I use correction fluid to correct it?

No. Never use correction fluid or other correction products on a document. Someone to whom the document is then presented may not accept the document because it would appear to have been altered and the person would not know if the alteration was done before or after you notarized the document. As stated above, use a pen (not a pencil or erasable ink) to cross out incorrect wording and to write in the corrected text. Always initial your changes.

635. My employer wants me to notarize an individual's signature on the document. The signer cannot appear before me, but my employer says he witnessed the individual signing the document. Can I notarize the document?

Not according to Arizona law. Arizona law specifies that the signer must always be in the notary's presence before the notary can complete the notarization.

636. My employer travels frequently. When he is out of the office, we use a rubber stamp of his signature to sign documents. Can we notarize this rubber-stamped signature?

No. Your employer did not appear before you (a requirement of both an acknowledgment and a jurat). Even if your employer was in the office, you would not be able to notarize his or her rubber- stamp signature unless the rubber-stamp was his/ her legal signature.

637. If a person comes to me as a notary and wants me to certify a document that must be sent to a foreign country, how do I do that?

You don't. The Secretary of State's Office is the only office in Arizona that is authorized to authenticate a document going to a foreign country. The name of the documents certified for foreign use are a Certificate of Authentication, (for countries belonging to the Hague Convention), and Apostilles. This provision is explained in A.R.S. § 41-325.

638. I am a court reporter. Do I have to get persons to whom I administer an oath or affirmation in a judicial proceeding to sign my journal?

No. A.R.S. § 41-324 specifies that you are exempt from this requirement for oaths and affirmations administered in judicial proceedings. However, you must fulfill the journal requirement

for all other notarizations you perform.

639. What happens if I notarize a document that does not have notarial wording on it and I don't type in the proper notarial wording? Can I just sign my name and affix my seal?

If you simply sign your name and affix your seal without any notarial wording, (notarial certificate) you have performed an invalid notarization. Notary law requires that all documents have a notarial certificate that states the facts that are attested to by the notary in a particular notarization. (A.R.S. § 41-311) If the proper wording does not appear and you do not add it or change it appropriately, the notarization of that document could be declared invalid in a court of law, and the Secretary of State could revoke your commission.

640. My husband and I are in business together and I am a notary. Can I notarize his signature on business documents?

No. State law now prohibits notarizing for a person related to you by marriage or adoption. (A.R.S. § 41-328(B))

If you have an interest in the document, either financially or beneficially, you should never notarize a signature on that document.

641. What if I think the signatures were made by the same person but later a court of law determines that the document was forged?

You should still be okay, because presumably you took reasonable care to compare the signatures on the document and in your journal and they appeared to have been made by the same person. But make sure you closely check the identification presented at the time of notarization to determine if the signer matches the physical description and photo.

642. What if the date on a document I am asked to notarize is a later date than the date I perform the notarization?

You cannot perform a notarial act before the document exists. Either the date of the document must be changed to reflect the date of notarization or you would refuse to perform the notarization.

643. A person came to me requesting that I perform an acknowledgment on a document. The document's date was a week in the future. The signer wanted me to postdate my notarization. Should I do this?

No. Never postdate or predate a notarial certificate. It is important that the date on the notarial certificate reflects the actual date of notarization. This date may conflict with other dates on the document, but you are only responsible for assuring that the date of the notarization is the same as the date on the notarial certificate. Another reason for never predating or postdating a notarization is because the dates of notarization that are reflected in your journal must be in consecutive order.

644. You say I cannot refuse to perform a notarial act when a reasonable request is made. What does "reasonable" mean?

If you are a notary for a business and the business posts its hours on the door, then any request made to you during your business hours, even at one minute before closing, is a

reasonable request. If you perform notarizations for your employer and also for others during your off-duty hours, then a request made to you at your home at 8 p.m. at night would be a reasonable request. If you only perform notarial acts while on duty for your employer and don't take your journal and seal home, then a request made at 8 p.m., if that time is normally an off-duty time for you, would be an unreasonable request. *Black's Law Dictionary* defines "reasonable" in part to be: "fair, proper, just, moderate, suitable under the circumstances..." However, if you are uncomfortable with a request for notarization, you are under no legal obligation to notarize.

645. Where do I place my seal?

You normally place your seal to the left of your signature in the notarial certificate.

646. What if there is no room in the notarial certificate to affix my seal?

Documents should be prepared meeting our notarial requirements. However, many of them are not so prepared. When you have a document where insufficient space is left for your seal, just do the best job you can of affixing it. If you have to cover up language on the document, it is better to cover up preprinted language than it would be to partially or wholly cover a signature. Preprinted language could always be reconstructed. A signature might be lost forever.

647. I've known John and Jane Doe for several years. Recently, John needed his signature acknowledged on a document. He signed it and then Jane brought it to me to notarize. Because I had known John for many years and recognized his signature, I performed the acknowledgment. Should I have done that? What if it had been a jurat?

No. Arizona notary law requires the signer to ALWAYS be present when the notarization is done. In this case the signer, John, was not present. You should not have performed the acknowledgment. If that document is part of a legal proceeding and the notarization is declared invalid, you could be fined for improperly notarizing a document, and the Secretary of State could revoke your notary commission.

Had the wording been jurat language instead of acknowledgment language, you would have also performed an improper notarization, not only because the signer was not present, but because a jurat requires you to place the signer under oath and testify that the contents of the document are true and correct.

CHAPTER 7

YOUR NOTARY JOURNAL

701. Do I need anything besides my certificate and my seal to perform notarial duties?

Yes. You must keep a journal. This is a requirement for all Arizona notaries, regardless of when your commission began. Stationery and office supply stores usually sell notary journals. Professional notary organizations also sell journals, however they may not meet the minimum requirements for the State of Arizona. (A.R.S. §§ 41-313 and 41-319)

702. Are there any specific requirements for the journal?

Yes. The journal must be a paper journal (with one exception, discussed in item #711 below) with the pages consecutively numbered, and the Notary must record all notarial acts in chronological order. Although the law does not require the journal to be permanently bound, the Secretary of State's Office recommends that you use a permanently bound journal for your own protection.

Permanently bound pages are more difficult to remove from a journal than loose-leaf pages. (A.R.S. § 41-319)

703. What does a journal entry include?

Each journal entry must include at least:

- The date of the notarial act;
- A description of the document and type of notarial act;
- The printed full name, address, and signature of each person for whom a notarial act is performed.
- The type of satisfactory evidence of identity presented to the notary by each person for whom a notarial act is performed, if other than the notary's personal knowledge of the individual is used as satisfactory evidence;
- A description of the identification document, its serial or identification number and its date of issuance or expiration;
- The fee, if any, charged for the notarial act.

The Notary also must furnish, when requested, a certified copy of any record in the Notary's journal. (A.R.S. § 41-319(A))

704. The entry must include the date of the notarial act. My journal has a place to show the time of day. Do I have to fill that in?

You are not required to list the time of day when you perform the notarization. However, if your journal has a place for this information, you may want to list it. Indicating the time of day may help jog your memory if you are ever asked to recall that particular notarization.

705. What do you mean by "description of the document"?

A description of the document would include the kind of document (power of attorney, car title, etc.) If the document is written in a foreign language, you must be able to read enough of that language to describe the document in your journal. If you cannot read the language, you should refuse to perform the notarization.

706. What is the “Type of notarial act”?

The type of notarial act is one of the four notarial acts which you, as a notary, can perform. These are: acknowledgment, jurat, copy certification, and oath or affirmation.

707. The law says a description of the document OR type of notarial act. Does this mean I can pick which I want to enter into my journal?

We recommend that you do both. The more information you put in your journal, the better off you will be. Most journals have space for both pieces of information.

708. Do I have to print the signer’s name and address in my journal?

You can, if you so desire. Or you could choose to have the signer do this at the time the signer signs his/her name.

709. What do you mean by “satisfactory evidence of identity?”

Satisfactory evidence of identity is defined in Chapter 2 and further explained in Chapter 5.

710. When I describe the identification document, do I list either the issuance date or the expiration date?

Yes. You must list at least one of those dates. However, we recommend that you list both dates. Of the two dates, the more important is the expiration date because that will tell you if the ID is current. An ID must be current to be used as a notarial ID. However, some state-issued ID cards and tribal-issued ID cards may not list an expiration date. For these types of ID cards, you will be able to list only the issuance date. Other requirements for IDs are specified in Chapter 5.

711. I work for an attorney and we always keep a copy of every notarized document. Do I still have to keep a journal?

Not necessarily. If you always know the signer personally and you always keep a copy of the notarized document, either in paper or electronic format, you would not have to make a journal entry for the notarization. However, if ever there is a person for whom you perform a notarization whom you don’t know, you must then keep a journal entry for all notarizations. (A.R.S. § 41- 319(B))

712. I repeatedly notarize for the same people. Do I have to make a journal entry every time?

Yes, you must make a journal entry for every notarization. However, you must have the people for whom you are performing the notarization present satisfactory evidence of identity and sign your journal once every six months. A.R.S. § 41-319(C))

713. I sometimes do several notarizations on the same kind of document for the same person at one time. Do I have to have a separate entry for each document?

No. You may group like documents notarized at the same time for the same person together into one entry in your journal. (A.R.S. § 41-319(D))

714. I perform notarizations for my company and I also perform notarizations on my own time. Can I have one journal for those notarizations I perform for my company and a second journal for those notarizations I perform on my own?

No. You can only have one journal at a time. The one exception to this is a journal that contains nonpublic records. If one or more entries in your journal are not public records, you may keep one journal that contains only entries that are public records and one journal that contains only records that are not public records. (A.R.S. § 41-319(E))

715. I work for a state agency and perform notarizations that must remain confidential by state law. Therefore, my journal contains entries that are not public record. When I leave this employment, do I keep that journal or does my employer keep that journal?

Your employer will keep those journals that contain entries that are not public records. You will keep journals that contain only entries that are public records. (A.R.S. § 41-319(E))

716. What purpose does the journal serve?

The journal provides proof that you performed the notarization, no matter how long ago you may have performed that notarization. The journal also verifies that you took the reasonable steps necessary to identify the signer of a document.

717. There are several Notaries in our office. Can we share a journal?

No. Each Notary must maintain his/her own journal.

718. My boss says that my journal is not a public record. Doesn't the law say that all notary journals are public record?

Most notary journals are public record. However, notary records that violate the attorney/client privilege or that are confidential due to state or federal law are not public record. If you work for a business that is not an attorney's office or that is not governed by state or federal confidentiality laws, your journal entries are public records.

If you perform notarizations that are not public record and also perform notarizations that are public record, you may keep two journals: one that contains only the nonpublic records, and one that contains only public records.

719. Can I take my notary records with me if I leave the job that I had when I became a Notary?

It depends on whether your journal contains nonpublic records. A.R.S. § 41-319(E) specifies that, a notary may keep one journal containing only public records and one that contains only nonpublic records. Your journal containing only nonpublic records would stay with your employer when you left that employment, but your journal containing only public records remains with you.

720. How long do I have to keep my notarial records?

A Notary is responsible for his/her own records and must keep them until "vacating the office" or for at least five years after the most current notarization was entered while you are a

notary. "Vacating the office" means you are no longer commissioned as a Notary, perhaps because you did not renew your commission, you are moving out of state, or your commission was revoked. A.R.S. § 41-317(B)) If you continue to be a commissioned notary, and your most current entry is at least five years old, your journal should be forwarded to the County Recorder's office.

721. If someone asks, do I have to give a certified copy of any record in my journal?

If your journal records are public records, then your journal may be viewed by or copied for any member of the public. However, the individual making the request to view or have copied a record from your journal must present to you a written request that details the month and year of the notarial act, the name of the person whose signature was notarized, and the type of document or transaction. If the person cannot supply you with that information or the request is not in writing, you can refuse to let the person see your journal or you can refuse to copy the records. (A.R.S. § 41- 319(F))

722. When I make the copy of a requested record, do I copy all entries on the page?

No, you should cover up the entries above and below the requested entry before making the copy.

723. When I show someone my journal after the person has made a proper request, do I let the person see all entries on the page?

No. As stated in #722, you should cover up all entries above and below the requested record before you show the requested record to the person.

724. How do I cover up the page? And can I do that all the time?

You can take some heavy-stock paper, such as cardboard or card stock, and cover entries above and below a requested record. The cardboard or card stock should be thick enough that the information on the page doesn't show through. You can also use the same procedure when you have a signer sign your journal. Just because you are performing a notarization for that individual doesn't mean that the signer has the right to see the information about other notarizations you have recently performed.

725. My employer paid all the fees for me to become a Notary. Now that I am leaving his employ, he told me he owns my journal, seal, and commission certificate. Is that right?

No. You, the Notary, own your journal, commission certificate, bond, and seal, no matter who paid for them. The only exception to this is a journal containing nonpublic records which would stay with the employer when you left that employment. (A.R.S. § 41-312(C))

726. What do I do with my Notarial records when I no longer wish to be a Notary?

When an individual ceases to be a Notary for any reason, (including resignation, death, revocation etc.) the Notary or the notary's personal representative shall deliver, by certified mail or other means providing a receipt, to the County Recorder in the county in which the Notary was commissioned, the Notary's journal and other records. If this action does not occur

within three months of a resignation, revocation, expiration, or appointment as personal representative, the notary or his/her representative would have to forfeit to the state not less than \$50 nor more than \$500 to the Secretary of State's office. (A.R.S. § 41-317)

727. Can I just send old notary journals to the County Recorder so that I don't have to make room for them?

No. You must keep your journals and records in your possession for at least five years, unless during that five-year period you cease being an Arizona notary public. You only send the journals and records to the County Recorder (by certified mail) when you are no longer an Arizona notary public.

728. I am a Notary in an office that handles confidential matters. If the documents I notarize are confidential, how can I, in good faith, turn over records to the County Recorder and have them become public record?

If your journal contains records that are not public record, as explained in previous questions, you would leave the journal with your employer with you left that employment. If your journal contains only public record entries, your journal is your property and you are responsible for turning it in to the County Recorder when you cease being a notary. (A.R.S. § 41-317).

729. What if, after I have turned over my records to the county, I am asked to prove that I notarized something?

This can happen. You may wish to make a copy of your notarial records before you turn them over to the County Recorder. However, because the records are in the hands of the County Recorder, you could refer the requestor to the County Recorder who can then locate your records and make a certified copy of the appropriate record.

730. Does the County Recorder keep the notary records indefinitely?

No. The law now specifies that County Recorders are only required to keep the notary records for a maximum of 5 years. Remember, too, that you only have to keep your records back five years. Thus, notarial records are kept for a total of 10 years. (A.R.S. § 41-317(B))

731. If my journal is lost or stolen, what do I do?

If the journal is stolen, you must notify the appropriate law enforcement agency. You must also, within 10 days of the loss or theft of your journal, deliver to the Secretary of State's Office a signed notice of the loss or theft. This notice must be sent by certified mail or other means that provides you with a receipt. You can then purchase a new journal and start using it. (A.R.S. § 41-323(B))

732. If my journal is lost or stolen, can I still perform notarizations?

Yes. But first you must purchase a new journal and inform the Secretary of State's office that your journal was lost or stolen and report the loss or theft to a local law enforcement agency. We recommend that you explain in your journal why you are using a new seal or journal. (A.R.S. § 41-323(B))

733. How do I know if my journal contains the correct information?

As long as the journal you use contains space for all of the information required in A.R.S. § 41- 319(A), then you are using a correct journal. Most journals that you can purchase contain space for the information Arizona requires plus additional information. For example, California requires thumbprints for certain real estate transactions. Thus, most notary journals contain a space for a thumbprint. However, a thumbprint is not required by Arizona law.

Shown on the next page is a sample of a journal entry. Some journals spread the blank spaces over two pages. Other journals only use one page for the entire entry. This sample uses both pages, although both pages' information are shown on one page here: The left side is shown first, followed by the right side.

Left Side:

#		Description of Document	Type of Notarial Act	Printed Name & Address of Signer	Signature of Signer
1		<hr/> <hr/> <hr/> D <hr/>	<input type="checkbox"/> Acknowledgment <input type="checkbox"/> Jurat <input type="checkbox"/> Copy Certification <input type="checkbox"/>	<hr/> <hr/> <hr/> <hr/>	

Enter the date
 Enter a description of the document being notarized. If the document is dated, list its date on the last line here.
 Check the box for the type of notarial act.
 Have the signer print his or her full name and address.
 Have the document signer sign his or her name here.

Right Side:

<input type="checkbox"/> Personal Knowledge <input type="checkbox"/> ID Card <input type="checkbox"/> Credible Person known to notary <input type="checkbox"/> Credible Person not known to notary	Type <hr/> Issued by <hr/> Serial or ID Number <hr/> Issue Date <hr/>	<hr/> <hr/> <hr/> <hr/>	Fee \$ <hr/>	<hr/> <hr/> <hr/> <hr/>	<hr/> <hr/> <hr/> <hr/>
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Check the appropriate box for the identification of the signer.
 Fill in the information taken from the identification document of either the signer or the credible person.
 If a credible person is used to identify the signer, after the credible person has presented you with satisfactory evidence of identity, have the credible person sign your journal on the top line here followed by his or her printed full name and address.
 Specify the fee charged, if any. A maximum fee of \$2.00 may be charged for notarizations unless you are employed by a Superior Court or a Justice Court. Also list any additional information you wish or that may be required by law.
 If a thumbprint is required (this is not a requirement of Arizona state law), place the signer's right thumbprint here. If the signer has no right thumb, use the left thumb or any other finger. Avoid over-inking by making a test print on a separate piece of paper.

CHAPTER 8

YOUR NOTARY SEAL

801. Can I notarize documents before I receive my commission certificate?

No. You must first receive your certificate. You must give a copy of your commission certificate to an office supply or stationery store in order to purchase a notary seal. The office supply or stationery store (or whatever vendor you use to make your notary seal) may want to see your original certificate which the vendor will then photocopy; the vendor must also keep the copy of your commission on file for the four years of your Notary commission. (A.R.S. § 41-321(A))

802. What kind of seal is required, an embosser or a rubber stamp?

All Arizona Notaries **must** use a rubber stamp seal and imprint the seal on notarized documents in dark ink. You may use an embosser (sometimes called a crimper), but only in conjunction with the rubber stamp. (A.R.S. §§ 41-313(B) and 41-321(B))

803. What does the seal have on it?

The seal must contain the words “Notary Public”, the county in which you are commissioned, your name as it appears on your notarial application which must match the name on your commission certificate, the expiration date of your commission, and the Great Seal of Arizona. (A.R.S. § 41-313(B))

804. Does my commission expiration date have to be on the seal?

Yes, this is required. You cannot use a separate stamp with your commission expiration date on it. The stamp you use must always have your current commission’s expiration date on it. You cannot continue to use a stamp beyond the expiration date specified on it by crossing out one date and inserting a different date. This means that you must purchase a new notary stamp each time you renew your commission. (A.R.S. § 313(B))

805. What color ink should I use with my rubber stamp seal?

You must use a dark ink as required by law. For example, dark blue, dark purple, black, dark green, or dark brown inks would all be acceptable. Many notaries like to use a color other than black so that they can tell at a glance that it is the original stamp. If you use black ink, a person will not be able to readily tell the original document from a photocopy. We strongly suggest that you **NOT** use red ink because red does not uniformly photocopy or scan well and may not be covered under the definition of “dark ink.” (A.R.S. § 41-313(B))

806. Where do I put my seal when notarizing a document?

We recommend that you place your seal just below the attestation and to the left, if possible. Please be careful not to stamp over signatures or other writing on the document and make sure that the seal is stamped clearly.

807. What if there isn’t room in the notarial certificate for my seal?

Do the best job you can of affixing your seal. You should never stamp over any text or signatures. However, if insufficient room is left for you to affix your seal, it is better to stamp over preprinted language than to stamp over signatures.

808. What do I do with my Notary seal after I send my journal and records to the county recorder because I am no longer a notary?

You must destroy your seal. Make sure that you destroy it so that no one else could use it. Do not simply throw your seal in the trash or garbage. Someone else might find it and try to impersonate you. That person's actions could cause you a lot of needless problems. So make sure you DESTROY YOUR SEAL.

809. What happens when I forget to put my seal on a document I have notarized?

You have performed an incomplete notarization. Arizona law requires you to place your seal on each document you notarize. If your notary seal does not appear on the document, a court of law could declare the notarization of that document to be invalid. In addition, the Secretary of State could revoke your notary commission. (A.R.S. § 41- 330(A)(4))

810. If my seal is lost or stolen, what do I do?

If the seal is stolen, you must notify the appropriate law enforcement agency. You must also, within 10 days of the loss or theft of your seal, deliver to the Secretary of State's Office a signed notice of the loss or theft; this notice must be sent by certified mail or other means that provides you with a receipt. (A.R.S. § 41-323(B))

811. If my seal is lost or stolen, can I still perform notarizations?

Yes. But first you must purchase a new seal. To order a new seal, you must take a copy of your commission certificate to a rubber stamp company or office supply store or stationery store and order a new seal. We recommend that you get a new seal that looks different from your original seal. Then you must notify the Secretary of State's Office, as well as the appropriate law enforcement agency telling us what your old seal looked like and the date it was lost or stolen and what your new seal looks like and the date you started using the new seal. That way, if we ever have to certify any document that you have notarized, we will know if it is a legitimate notarization. We recommend that you explain in your journal why you are using a different seal. (A.R.S. §§ 41-323 and 41-321)

812. You say my seal should be a different shape. What shapes are allowed?

There are no shape requirements for notary seals. However, they cannot be more than 1-1/2 inches high and 2-1/2 inches long. (A.R.S. § 41- 321(B))

CHAPTER 9 FEES

901. Can I charge people to notarize their documents?

Yes. The fees that you can currently charge are no more than \$2.00 and are outlined in A.A.C. R2-12- 1102. (The Arizona Administrative Code Rules has the full force and effect of law.) If you charge fees for performing notarial acts, you either charge the fees up to the amounts specified by rule or you perform the notarial acts for free. You are not allowed to charge more FOR NOTARIAL ACTS than the amounts specified in A.A.C. R2-12-1102, even if you call the additional charge a “service fee” “transaction fee” or some other name. Such a practice would constitute “charging excessive fees” which is not allowed according to A.R.S. §§ 38-413 and 41-316(C). If you charge higher fees than those allowed by rule, you are liable to the party aggrieved in an amount four times the fee you unlawfully demanded and received. You would also be guilty of a class 5 felony. If your company or office tells you to charge more than is allowed by rule, please show your employer the laws and rules pertaining to Notaries Public and explain that overcharging for notarial services is a felony. Your employer may call the Secretary of State’s Office if questions about this law arise. Please note: if you charge fees for notarial acts, you must post a list of those fees in a conspicuous location. (A.R.S. §§ 41-316, 38-412, and 38-413.)

902. Can I charge some people one price and other people another price?

If you do this, the people whom you charged a higher amount could claim that you discriminated against them. It’s best to set your fees and then stick to them. Either charge the same fee for every notarization or don’t charge at all. When you treat people differently concerning fees, you could face a discrimination lawsuit.

903. Do I have to post my fees?

A.R.S. § 38-412 requires notaries to post in a conspicuous place a schedule of the fees they are allowed to charge. Publishing the fees in a brochure is not considered a “conspicuous” posting.

904. What happens if I charge more than the rules say I can? Can I add on a “service charge”?

If you charge more than the rules allow for a notarization, you are liable to the person whom you charged the excess fee an amount four times the fee unlawfully demanded and received. In addition, you would be guilty of a Class 5 felony. (A.R.S. §§ 41-413, and 41-316(C)).

You could charge a travel mileage fee and charge per diem, however, if you must travel a distance to perform the notarization. The travel mileage fee and the per diem that you could charge would be the amount allowed Arizona state employees. Currently, the mileage fee is 34.5¢ per mile. The per diem charge depends on when you leave your home base (either a business address or a home address, depending on whether you are performing the notarization for your employer or on your own time), when you return to your home base, and how long you were gone for the purpose of performing the notarization. The rates change periodically. Check with the Secretary of State’s Office before charging a customer to ensure

that you charge the correct amount.

905. What if my company or organization requires me to charge more than the maximum fees specified in A.R.S. § 41-316?

If your company or organization requires you to charge more than is allowed by law, the company or organization is requiring you to perform your notarial duties in violation of the law. You as the notary will be the one who must answer for your actions in court or during an investigation. You as the notary will be the one whose notary commission may be revoked. It is vitally important that you inform your superiors in your company or organization that they are telling you to violate state statute and commit a felony. You as the notary are expected to obey the notary laws.

CHAPTER 10

VIOLATIONS OF THE LAW

1001. What happens if I commit a felony or other offense in violation of my official duties during my Notary term of office?

The Secretary of State may revoke your notary commission after you have been convicted of a felony or a violation of your official duties and we receive notification of your conviction. As a public official, conviction of a felony means that you must vacate your office. You must destroy your notary seal, and you must turn in your journal and other notarial records to the County Recorder's office in the county in which you were commissioned.

1002. Can I be held liable for anything when I perform a notarial service?

Yes. You could be held liable for misconduct considered "official misconduct." Official misconduct includes any wrongful exercise of a power or performance of a duty. Possible examples of official misconduct by a Notary and grounds for the Secretary of State to refuse, revoke, or suspend a notary's commission are specified in A.R.S. § 41-330 and as follows:

- Substantial and material misstatement or omission in the application for a notary public commission that is submitted to the secretary of state.
- Conviction of a felony unless your civil rights have been restored to, or of a lesser offense involving moral turpitude or of a nature that is incompatible with the duties of a notary public. A conviction after a plea of no contest is deemed to be a conviction for purposes of this paragraph.
- Revocation, suspension, restriction or denial of a professional license if that action was for misconduct, dishonesty or any cause that substantially relates to the duties or responsibilities of a notary public.
- Failure to discharge fully and faithfully any of the duties or responsibilities required of a notary public.
- The use of false or misleading advertising in which the notary public has represented that the notary public has duties, rights or privileges that the notary public does not possess by law.
- Charging more than the fees authorized by statute.
- The commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another person or to substantially injure another person.
- Failure to complete the acknowledgment or jurat at the time the notary's signature and seal are affixed to the document.
- Failure to administer the oath or affirmation required at the time of performing a jurat for an individual.
- Execution of any notarial certificate by the notary public containing a statement known by the notary public to be false.
- The return for insufficient funds or any other reason for nonpayment of a check issued for application fees to the secretary of state or the bond filing fees to the clerk of the superior court in the applicant's county of residence.

In addition, the following would be included in the above specifications:

- Engaging in any fraudulent or deceptive conduct that is related in any way to one's capacity as a Notary Public. This would include using someone else's Notary seal or letting someone else use your Notary seal.
- Failing to take all reasonable steps to verify a signer's identity.
- Representing or implying by use of your title that you have the qualifications, powers, duties, rights, or privileges that by law you do not possess, either in English or in a foreign language. (A.R.S. § 41-329)
- Performing a jurat when the signer has not personally signed the document in front of the Notary or on a document that is incomplete.

If you are found guilty of official misconduct, a court could hold you to unlimited liability. In Arizona your Notary commission could be revoked, perhaps permanently. In some states, the employer of a Notary Public could also be held jointly and severally liable with the Notary for damages caused by official misconduct of the Notary if the Notary was acting within the scope of the Notary's employment or if the employer had actual knowledge of, or reasonably should have known of, the Notary Public's official misconduct. (A.R.S. § 41-329(B))

1003. How long does a suspension or revocation last?

In both cases, the Secretary of State's determination is a result of the Attorney General's investigation of a formal complaint filed against a notary public. It is possible for a notary to be suspended for either a specific period of time or until certain conditions determined in the investigative process are met. However, revocations could possibly be permanent and a notary could not re-apply for a notary commission until four years have passed from the date of revocation.

1004. Could I be fined or go to prison for misconduct?

Yes. If you are prosecuted for criminal fraud, you could be fined and/or imprisoned and/or required to make restitution. If you are found civilly liable, you could face unlimited financial damages, court costs, and attorney fees.

1005. I work in an office with other people, but I'm the only notary. My boss told me to leave my notary seal in an unlocked drawer so that someone else could use it to notarize documents when I'm not there. Is this legal?

No. Notary commissions are not transferable. No one is allowed to use your Notary seal or your Notary journal except you. You are the one responsible for ensuring that your seal and journal are placed in a secure location to which no one else has access. If you are proven to have used someone else's notary seal, your Notary commission or the other person's Notary commission, or both, could be revoked. If you use another person's Notary seal, or another person uses your Notary seal, you could face fines or jail time, depending on the court's action.

1006. What happens if my boss tells me to notarize something which would violate our state's Notary law?

The State of Arizona commissioned you as a Notary Public; your boss did not. You must obey the state law. You are required to keep a reference manual that is approved by the Secretary of State that describes the duties, authority and ethical responsibilities of notaries public. (A.R.S. §412(4)) We suggest that your company adopt a manual of Notary policies and procedures including the laws applicable to Notaries Public.

1007. What happens when I forget to put my seal on a document I have notarized?

You have performed an incomplete notarization. Arizona law requires you to place (affix) your seal on each document you notarize. If your notary seal does not appear on the document, a court of law could declare the notarization of that document to be invalid. In addition, the Secretary of State could revoke your notary commission. (A.R.S. § 41-330)

1008. What happens if I notarize a document that does not have notarial wording on it and I don't type in the proper notarial wording?

You have performed an invalid notarization. The notarial wording must appear on the document. If the notarial certificate does not appear and you do not add it or change it appropriately, the notarization of that document could be declared invalid in a court of law. And the Secretary of State could revoke your commission. (A.R.S. § 41-330)

1009. What if I notarize a document that contains blank spaces?

You cannot perform a jurat on a document that contains blank spaces or that is incomplete. There is no such limitation when performing acknowledgments, although the Secretary of State's Office recommends that you never notarize a document containing blank spaces, although we recommend that you do not notarize a signature on any document containing blank spaces. (A.R.S. § 41- 328(A))

1010. If I assist spanish speaking customers can I advertise as a "notario publico"?

Other than a single desk plaque, you **cannot** advertise your services in a foreign language unless you are an attorney or, if you are not an attorney and you advertise, either by written or verbal means, then you must post or otherwise include with the advertisement a notice in English and the other language. The notice must be of conspicuous size, if in writing, and shall state, "I am not an attorney and cannot give legal advice about immigration or any other legal matters."

Any notary public who violates this section of the notary law is guilty of a class 6 felony and the Secretary of State shall **permanently** revoke the notary's commission. (A.R.S. § 41-329)

1011. What occurs when a complaint is filed against me?

A written complaint indicating a violation of notary law or ethics is submitted to the Secretary of State. The complaint is then forwarded to the Attorney General's office who investigates the complaint and recommends to the Secretary of State what type of action should be taken on the alleged violations. The Secretary of State then sends a written notice to the notary of its decision.

1012. What actions can the Secretary of State take on a complaint?

The three options available to the Secretary of State are:

1. Take no action.
2. Suspension. Pursuant to A.R.S. §41-330(C) the Secretary of State is authorized to suspend notaries for 60 to 180 days subject to an administrative hearing.

3. Revocation. According to recently passed A.R.S. §41-330(D) reapplication for a revoked commission is not possible until 4 years have passed since the time of revocation. As with a suspension, a revocation is subject to an administrative hearing.

In the case of a suspension or revocation a notary has 30 days within the date of notification of the suspension or revocation to request an administrative hearing by contacting the Secretary of State by a means that will provide proof of the communication such as certified mail.

CHAPTER 11

APOSTILLES AND CERTIFICATES OF AUTHENTICATION

1101. If a person comes to me as a notary and wants me to certify a document that he or she needs to send to a foreign country, how do I do that?

You don't. The Secretary of State's Office is the only office in Arizona that is authorized to issue a certification or apostille for a notarized document going to a foreign country. (A.R.S. § 41- 325) We also issue certifications and apostilles for certain other public documents as well, including those issued by the Governor, the County Recorders, and the Registrar of Vital Records.

1102. What is an apostille?

An apostille is a certificate of authority, issued by the Secretary of State (if issued in the United States) or other authenticating authority (if issued in a foreign country), attached to a notarized document or a certified recorded document. Apostilles and certificates of authentication are specifically for documents going to foreign countries. For notarized documents, an apostille attached to the document indicates that the person who notarized the document was, in fact, a notary public at the time of the notarization. For certified recorded documents, the apostille certifies that the person who certified the document was, in fact, the official authorized to do so. The form of the apostille is dictated by the Hague Convention and is uniform among all subscribing countries. (A.R.S. § 41-326)

1103. Do documents going to every foreign country require an apostille?

No. Apostilles are used for documents going to countries that subscribe to the Hague Convention of 1961. Documents going to countries that do not subscribe to the Hague Convention receive a conventional certificate issued by the Secretary of State's office. Conventional certificates, unlike apostilles, vary in format from country to country and from jurisdiction to jurisdiction.

1104. Can an Apostille or Certificate of Authentication be used to certify or authenticate a document going to another state within the United States?

No. An apostille or certificate of authentication are only for use in a foreign country.

CHAPTER 12

TRAINING

1201. Does the Secretary of State's Office provide notaries with any information about performing their duties?

Yes. Notaries Public are required to keep as reference a manual that is approved by the Secretary of State that describes the duties, authority and ethical responsibilities of Notaries Public. (A.R.S. § 41-412(4)) The reference manual is available on the Internet through the Secretary of State's home page at www.azsos.gov.

The Secretary of State's Office also presents workshops for notaries public throughout the state. Schedules and registration for these workshops are also available on the Internet through the Secretary of State's home page at www.azsos.gov or by contacting the Secretary of State by phone at 602-542-4758.

The workshops cover the current notary law, pertinent sections of other laws, and any proposed legislation. Advanced registration is required for these workshops. In addition, Office staff may present shorter programs to interested groups on an as-requested basis.

Contact the Office at (602) 542-4758 if your group would be interested in such a program.

1202. Is there any other training offered to notaries public?

From time to time, groups and organizations come into Arizona to present general notary information at workshops or seminars.

The Secretary of State does not require that groups or organizations presenting workshops/seminars notify our office, although several do extend that courtesy.

Please note: these groups and organizations are private entities and do not represent the Arizona Secretary of State's Office.

1203. What education is required in the state of Arizona?

Arizona law does not require training for Notaries Public. However, current legislation does require notaries to "keep as a reference a manual that is approved by the Secretary of State that describes the duties, authority and ethical responsibilities of notaries public." (A.R.S. §41-312)

Additionally, the Secretary of State's Office offers workshops for Notaries. The schedule for workshops is available online at www.azsos.gov. Pre-registration is required for these workshops. The Office does not charge a registration fee; however, you may have to pay for parking fees, depending on the location.

CHAPTER 13 MISCELLANEOUS PROVISIONS

Name Changes

1301. What if I receive a Notary commission under one name and then get married before my commission expires? Can I use my new married name?

If you get married and change your name at that time, you can use your new married name. Just sign your married name and below that signature, sign the name under which you were commissioned. If your name is changed by any means other than marriage, you must apply for a new commission. You must also notify the Secretary of State's Office within 30 days when your name changes due to marriage and you continue to function as a notary under your previous name. (A.R.S. § 41-327)

1302. That's a lot of work. Can I just renew my commission under my new name?

Yes, you can. However, you must apply for your new commission just as if you were applying for the first time including filling out an application, paying the necessary fees, buying a new bond, and buying a new Notary seal.

1303. What if I legally had my name changed but not because I got married?

Then you must apply again, pay the fees, buy a new bond, and obtain a new Notary seal. In order for your new name to be used as your legal name, a court of law must authorize the change.

1304. What if get divorced and go back to a previous name? Do I still have to apply for a new commission?

Because your name would be changing other than by marriage, you would have to apply for a new commission.

Change of Address

1305. Can I still notarize documents if I move out of the county in which I was commissioned?

Yes. Arizona Notaries are commissioned in their county of residence at the time of commissioning. However, they may notarize throughout the entire state of Arizona. When you renew your commission, you will be commissioned from your new county of residence. You would continue to use your seal in the meantime even if the county is no longer correct, because your bond is still filed at the Clerk of the Court's office in that county. Remember that **if you relocate you must notify the Secretary of State's office within 30 days or you will be assessed a \$25 civil penalty.**

1306. What if I move out of state? Can I still notarize when I return to Arizona periodically?

No. A commission as an Arizona Notary is dependent on your being an Arizona resident. If you move out of state, you would no longer be an Arizona resident nor would you have a primary residence in Arizona. Therefore you would automatically vacate your office. You are then required to send your Notary records to the County Recorder in the county in which you were commissioned; you are required to destroy your seal; and you must notify the Governor in writing that you are resigning your commission. (You should also notify the Secretary of State, the Clerk of the Superior Court where your Notary bond was filed, and your bonding company.) Even if you return to Arizona occasionally, once you move out of state, you are no longer considered an Arizona resident and therefore cannot perform notarial acts here.

1307. If I move, do I have to notify you?

- Yes. **If you move within Arizona (home or mailing address only), you must notify the Secretary of State by certified mail or another means providing a receipt that you have moved and what your old address was and what your new address is. Failure to follow this procedure will result in our assessing you a \$25 civil penalty.** (A.R.S. § 41-323)
- If you move out of state, you must notify us that you are no longer living within Arizona. From the date you move out of state, your Arizona Notary commission is no longer valid. You are also required by law to turn in your Notary records to the County Recorder's Office of the county in which you were commissioned. In addition you are responsible for destroying your seal. You must also resign your commission in writing to the governor. (A.R.S. § 38-294)
- If your business address changes, simply notify us in writing, listing your name as it appears on your commission certificate and your old and new business address. This notification can be done through the regular mail.

1308. What happens if I forget to notify you?

If you fail to notify us about your change of mailing or residential address, we will assess you a \$25 civil penalty which you must pay to this office before we can renew your notary commission. If your business address changes, you must notify us by regular mail, fax, or e-mail, please be sure to sign your name. (A.R.S. § 41-323)

1309. If I move to another state, can I get you to transfer my notary commission to my new state?

No. Each state has its own commissioning requirements. Notary commissions do not transfer from state to state.

1310. Are notary laws the same in every state?

No. Every state's notary law is different. For example, California requires a thumbprint whenever a notarization involving a real estate transaction is performed. Arizona does not require thumbprints. In three states, notaries are allowed to perform marriages. Arizona notaries are not allowed to perform marriages.

Other Provisions

1311. I'm a commissioned officer in the military and, as such, can notarize signatures of members of the Armed Services and their families under federal law. Are those notarizations valid in Arizona?

Yes. (Attorney General Opinion I97-011 (R97-033))

1312. What does "by certified mail or other means providing a receipt" mean?

That means that you are required to send the appropriate notice or material by a means that will provide you with a receipt that the receiving office does not pay to create or mail back to you. Please retain your receipt as proof of the communication.

CHAPTER 14

SUMMARY OF NEW LEGISLATION

1401. A notarial certificate is required on all notarizations and a document lacking a notarial certificate is considered an “incomplete document” and is grounds for revocation.

A.R.S. §41-311(5) amends the definition of an incomplete document to include the lack of a notarial certificate. Additionally, A.R.S. §41-311(8) amends the definition of a notarial certificate to include the attestation of facts by the notary. Any notarization lacking a notarial certificate will be considered an invalid notarization. A.R.S. §41-330(A)(12) states that notarizing a document lacking a notarial certificate is grounds for revocation.

1402. Only a United States government issued identification is acceptable.

A.R.S. §41-311(11)(a) specifies that only United States government or a state or tribal issued forms of identification with the proper physical description of the individual may be accepted by notaries.

1403. Notaries are required to possess a notary public reference manual.

A.R.S. §41-312(E)(4) states that a notary must keep a reference manual approved by the Secretary of State that describes the duties, authority and ethical responsibilities of notaries public.

1404. If revoked, a notary may not re-apply for a commission within four years of their revocation.

A.R.S. §41-330(D) maintains that in the case of the revocation of a notary’s commission, reapplication for a commission is not possible until 4 years have passed since the time of revocation.

1405. Besides revocation, it is now possible for a notary’s commission to be suspended.

A.R.S. §41-330(C) allows the Secretary of State to suspend notaries for 60 to 180 days subject to an administrative hearing.

1406. A notary fails to fully and faithfully discharge the duties of a notary in the following circumstances:

1. A notary’s failure to notify of a change of address within 30 days after the change has occurred. (A.R.S. §41-323(A))
2. A notary’s failure to notify of a change of surname within 30 days after the change has occurred. (A.R.S. §41-327(A))
3. A notary’s failure to notify of a lost or stolen notary journal within 10 days of the loss or theft. (A.R.S. §41-323(B))
4. A notary’s failure to respond to a notary complaint investigation. (A.R.S. §41-331(B))

CHAPTER 15

LAWS PERTAINING TO NOTARIES PUBLIC

TITLE 41. STATE GOVERNMENT

CHAPTER 2. ADMINISTRATIVE OFFICERS

ARTICLE 2. NOTARIES PUBLIC

§ 41-311. Definitions

In this article, unless the context otherwise requires:

1. "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is proven by satisfactory evidence, appeared before the notary and acknowledged that the signer signed the document.
2. "Commission" means to authorize to perform notarial acts and the written authority to perform those acts.
3. "Copy certification" means a notarial act in which the notary certifies that the notary has made a photocopy of an original document that is neither a public record nor publicly recordable.
4. "Identity is personally known" means familiarity with an individual resulting from interactions with that person over a sufficient time to eliminate reasonable doubt that the individual has the identity claimed.
5. "Incomplete document" means a document that has not been signed where a signature line is provided or where other obvious blanks appear in the document or that lacks a notarial certificate.
6. "Jurat" means a notarial act in which the notary certifies that a signer, whose identity is proven by satisfactory evidence, has made in the notary's presence a voluntary signature and has taken an oath or affirmation vouching for the truthfulness of the signed document.
7. "Notarial act" and "Notarization" means any act that a notary is authorized to perform under section 41-313.
8. "Notarial certificate" and "certificate" means the part of or attachment to a notarized document for completion by the notary that bears the notary's signature and seal and states the facts that are attested by the notary in a particular notarization.
9. "Notary public" and "notary" means any person commissioned to perform notarial acts under this article.
10. "Oath" or "Affirmation" means a notarial act or part of a notarial act in which a person made a vow in the presence of the notary under penalty of perjury, with reference made to a supreme being in the case of an oath.
11. "Satisfactory evidence of identity" means that proof of identity is evidence by either:
 - (a) At least one current form of identification issued by the United States government or a state or tribal government with the individual's photograph, signature and physical description. The individual's physical description contained in the form of identification shall be written and shall include at a minimum of description the individual's height, weight, color of hair and color of eyes.
 - (b) The oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual.
 - (c) The oath or affirmation of a credible person who personally knows the individual and who provides satisfactory evidence of identity pursuant to subdivision (a) of this paragraph.
 - (d) Personal knowledge of the individual by the notary.

§ 41-312. Appointment; term; oath and bond

- A.** The secretary of state may appoint notaries public in each county to hold office for four years who shall have jurisdiction in the county in which they reside and in which they are appointed. Acknowledgments of documents may be taken and executed and oaths may be administered by a notary public in any county of the state although the commission is issued to the notary public in and for another county.
- B.** The secretary of state shall transmit the commission of the person appointed as notary public to the clerk of the superior court in the county for which the notary was appointed. The clerk shall give notice of the appointment to the person appointed, who shall take, within twenty days after receiving such notice, the oath prescribed by law, and give a bond to the state, with sureties approved by the clerk, in an amount prescribed by the secretary of state and file it with the clerk. Upon filing the official oath and bond the clerk shall deliver the commission to such person, and give notice to the secretary of state of the time and filing of the oath and bond.
- C.** A notary public is a public officer commissioned by this state and the following apply without regard to whether the notary public's employer or any other person has paid the fees and costs for the commissioning of the notary public, including costs for the official seal and journals:
 - 1. A notary public's official seal and commission and any journal that contains only public record entries remain the property of the notary public.
 - 2. A notary public may perform notarizations outside the workplace of the notary's employer except during those times normally designated as the notary public's hours of duty for that employer. All fees received by a notary public for notarial services provided while not on duty remain the property of the notary public.
 - 3. An employer of a notary public shall not limit the notary public's services to customers or other persons designated by the employer.
- D.** A notary public shall continue to serve until the notary public's commission expires, the notary public resigns the commission, the notary public dies or the secretary of state revokes the commission. An employer may not cancel the notary bond or notary commission of any notary public who is an employee and who leaves that employment.
- E.** A notary public shall comply with all of the following:
 - 1. Be at least eighteen years of age.
 - 2. Be a resident of this state for income tax purposes and claim the individual's residence in this state as the individual's primary residence on state and federal tax returns.
 - 3. Except as provided in section 41-330, subsection A, paragraph 2, never have been convicted of a felony.
 - 4. Keep as a reference a manual that is approved by the Secretary of State that describes the duties, authority and ethical responsibilities of notaries public.
- F.** An applicant for appointment and commission as a notary public shall complete an application form prescribed by the secretary of state. Except for the applicant's name and business address, all information on the application is confidential and may not be disclosed to any person other than the applicant, the applicant's personal representative or an employee or officer of the federal, state or local government who is acting in an official capacity. The secretary of state shall use the information contained on the application only for carrying out the purposes of this article.
- G.** The state or any of its political subdivisions may pay the fees and costs for the commissioning of a notary public who is an employee of this state or any of its political subdivisions and who performs notarial services in the course of the notary public's

employment or for the convenience of public employees.

§ 41-313. Duties

A. Notaries public shall perform the following notarial acts, when requested:

1. Take acknowledgments and give a certificate of the acknowledgment endorsed on or attached to the instrument.
2. Administer oaths and affirmations.
3. Perform jurats.
4. Perform copy certification.

B. Notaries public shall:

1. Keep, maintain and protect as a public record a journal of all official acts performed by the notary as described in section 41-319.
2. Provide and keep the official seal that is imprinted in dark ink with the words "Notary Public", the name of the county in which the notary is commissioned, the name of the notary as it appears on the notarial application, the great seal of the state of Arizona and the expiration date of the notarial commission.
3. Authenticate with the official seal all official acts, and affix the date of the expiration of the notary's commission as the notary on every certificate or acknowledgment signed and sealed by the notary.
4. Respond to any requests for information and comply with any investigations that are initiated by the secretary of state or the attorney general.

§ 41-314. Repealed

§ 41-315. Bond

- A.** A person who has been commissioned as a notary shall file an oath of office and a bond in an amount prescribed by the secretary of state with the clerk of the superior court in the notary's county of residence in order for the commission to become effective. A licensed surety shall execute the bond. The bond shall be effective for four years beginning on the commission's effective date.
- B.** The clerk of the superior court shall not accept any bond that was issued more than sixty days before or thirty days after the date on which the secretary of state commissions a notary.

§ 41-316. Fees

- A.** The secretary of state shall establish fees that notaries public may charge for notarial acts. These fees shall be established by rules adopted pursuant to chapter 6 of this title.
- B.** Notaries public may be paid an amount up to the amount authorized for mileage expenses and per diem subsistence for state employees as prescribed by title 38, chapter 4, article 2.
- C.** A notary shall not charge or receive a fee for performing a notarial act except as specifically authorized by statute.

§ 41-317. Depositing notarial journals and records; failure to comply; storing records; certified copies

- A.** On the resignation or revocation of a notarial commission or the death of a notary, the notarial journal and records, except those records of notarial acts that are not public record, shall be delivered by certified mail or other means providing a receipt to the office of the county recorder in the notary's county of residence. If a notary does not apply for reappointment, on expiration of the notarial commission the journal and records shall be delivered to the county recorder as required for resignation under this subsection. A notary who neglects for three months thereafter to deposit such records and papers, or the personal representative of a deceased notary who neglects for three months after his appointment to deposit such records and papers, shall forfeit to the state not less than fifty nor more than five hundred dollars.
- B.** While a notary public is commissioned, a notary public shall keep all records and journals of the notary's acts for at least five years after the date the notarial act was performed. On receipt of the records and journals from a notary public who is no longer commissioned, the

county recorder shall keep all records and journals of notaries public deposited in the county recorder's office for five years and shall give certified copies thereof when required, and for the copy certifications the county recorder shall receive the same fees as are by law allowed to notaries public. The copy certifications shall be as valid and effectual as if given by a notary public.

§ 41-318. Wilful destruction of records; penalty

Any person who knowingly destroys, defaces or conceals any journal entry or records belonging to the office of a notary public shall forfeit to the state an amount not exceeding five hundred dollars and shall be liable for damages to any party injured thereby.

§ 41-319. Journal

- A.** The notary shall keep a paper journal and, except as prescribed by subsection E, shall keep only one journal at a time. The notary shall record all notarial acts in chronological order. The notary shall furnish, when requested, a certified copy of any public record in the notary's journal. Records of notarial acts that violate the attorney client privilege or that are confidential pursuant to federal or state law are not a public record. Each journal entry shall include at least:
1. The date of day of the notarial act.
 2. A description of the document or type of notarial act.
 3. The printed full name, signature and address of each person for whom a notarial act is performed.
 4. The type of satisfactory evidence of identity presented to the notary by each person for whom a notarial act is performed, if other than the notary's personal knowledge of the individual is used as satisfactory evidence of identity.
 5. A description of the identification document, its serial or identification number and its date of issuance or expiration.
 6. The fee, if any, charged for the notarial act.
- B.** If a notary has personal knowledge of the identity of a signer, the requirements of subsection A, paragraphs 1 through 5 may be satisfied by the notary retaining a paper or electronic copy of the notarized documents for each notarial act.
- C.** If a notary does more than one notarization for an individual within a six month period, the notary shall have the individual provide satisfactory evidence of identity the first time the notary performs the notarization for the individual but may not require satisfactory evidence of identity or the individual to sign the journal for subsequent notarizations performed for the individual during the six month period.
- D.** If a notary performs more than one notarization of the same type for a signer either on like documents or within the same document and at the same time, the notary may group the documents together and make one journal entry for the transaction.
- E.** If one or more entries in a notary public's journal are not public records, the notary public may keep one journal that contains entries that are not public records and one journal that contains entries that are public records. A notary public's journal that contains entries that are not public records is the property of the employer of that notary public and shall be retained by that employer if the notary public leaves that employment. A notary public's journal that contains only public records is the property of the notary public without regard to whether the notary public's employer purchased the journal or provided the fees for the commissioning of the notary public.
- F.** Except as provided in subsections A and E, the notary's journal is a public record that may be viewed by or copied for any member of the public, but only upon presentation to the notary of a written request that details the month and year of the notarial act, the name of the person whose signature was notarized and the type of document or transaction.

§ 41-320. Competency of bank and corporation notaries

- A.** It is lawful for a notary public who is a stockholder, director, officer or employee of a corporation to take the acknowledgment or oath of any party to any written instrument executed to or by the corporation, or to administer an oath to any other stockholder,

director, officer, employee or agent of the corporation, or to protest for nonacceptance or nonpayment of bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by the corporation.

- B. It is unlawful for any notary public to take the acknowledgment of an instrument executed by or to a corporation of which he is a stockholder, director, officer or employee, where the notary is a party to the instrument, either individually or as a representative of the corporation, or to protest any negotiable instrument owned or held for collection by the corporation, where the notary is individually a party to the instrument.

§ 41-321. Obtaining a seal; violation; classification

- A. A vendor of notary seals may not provide an official seal to a person unless the person presents a photocopy of the person's notarial commission. The vendor shall retain the photocopy for four years.
- B. A notary public's official seal may be any shape and shall produce a stamped seal that is no more than one and one-half inches high and two and one-half inches wide. A notary public may possess only one official seal but may also possess and use an embossing seal that may be used only in conjunction with the notary public's official seal. An embossing seal is not an official seal of a notary public.
- C. A person who violates this section is guilty of a class 3 misdemeanor.

§ 41-322. Evidence of authenticity of a notarial act

- A. If a notarial act is performed by any of the persons described in section 33-501, paragraphs 1 through 4, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank or title and serial number, if any, of the person is sufficient proof of the authority of the person to perform the act. Further proof of the person's authority is not required.
- B. If a notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, any of the following is sufficient proof of the authority of the person to perform the act:
 - 1. Certification by a foreign service officer of the United States resident in the country in which the notarial act is performed or a diplomatic or consular officer of the foreign country resident in the United States that a person who holds the office that the person holds is authorized to perform notarial acts.
 - 2. Affixation to the notarized document of the official seal of the person performing the notarial act.
 - 3. The appearance either in a digest of foreign law or in a list that is customarily used as a source of such information of the title and the indication of authority to perform notarial acts of the person.
- C. If a notarial act is performed by a person other than a person described in subsections A and B of this section, sufficient proof of the authority of the person to act exists if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of the person and to the person's authority to perform the notarial act.
- D. The signature and title of a person performing a notarial act are prima-facie evidence that the person is a person with the designated title and that the signature is genuine.

§ 41-323. Change of address; lost journal or seal; civil penalty

- A. Within thirty days after the change of a notary's mailing or residential address, the notary shall deliver to the secretary of state, by certified mail or other means providing a receipt, a signed notice of the change that provides both the old and new addresses.
- B. Within ten days after the loss or theft of an official journal or seal, the notary shall deliver to the secretary of state, by certified mail or other means providing a receipt, a signed notice of the loss or theft. The notary also shall inform the appropriate law enforcement agency in the case of theft.
- C. If a notary fails to comply with subsection A or B, the notary has failed to fully and faithfully discharge the duties of a notary and the secretary of state may impose a civil penalty of twenty-five dollars against the notary. The notary shall pay any civil penalty imposed by the

secretary of state pursuant to this subsection prior to the renewal of the notary's commission.

§ 41-324. Court reporters; notarial acts

- A. Court reporters who administer oaths and affirmations in judicial proceedings are exempt from the provisions of this chapter other than section 41-315. Court reporters who are commissioned as notaries and who perform notarial acts outside of judicial proceedings are subject to all provisions of this chapter and of other laws of this state that regulate notaries public.
- B. A court reporter who prepares a transcript of a judicial proceeding shall attach a certificate page to the transcript. On the certificate page, the court reporter shall attest to the fact that the reporter administered an oath or affirmation to each witness whose testimony appears in the transcript.
- C. An affidavit of nonappearance that is prepared by a court reporter does not need to be witnessed by a notary.

§ 41-325. Evidence of authenticity of a notarial act performed in Arizona

- A. The authenticity of the official notarial seal and signature of a notary may be evidenced by either:
 - 1. A certificate of authority from the secretary of state, authenticated as necessary.
 - 2. An apostille from the secretary of state in the form prescribed by the Hague Convention abolishing the requirement of legalization of foreign public documents of October 5, 1961.
 - 3. An apostille as specified by the Hague Convention shall be attached to any document that requires authentication and that is sent to a nation that has signed and ratified this convention.

§ 41-326. Apostille

An apostille prescribed by the Hague Convention, as cited in 28 United States Code in annotations to Rule 44 of the federal rules of civil procedure, shall be in the form of a square with sides at least nine centimeters long and shall contain exactly the following wording:

Apostille

(Convention de la Haye du 5 Octobre 1961)

- 1. Country: _____
This public document
- 2. Has been signed by _____
- 3. Acting in the capacity of _____
- 4. Bears the seal/stamp of _____
Certified
- 5. At _____ 6. The _____
- 7. By _____
- 8. No. _____
- 9. Seal/stamp _____ 10. Signature: _____

§ 41-327. Name change; new commission

- A. A notary public who has a change of surname due to marriage may continue to use the official seal and commission in the notary public's prior name until that commission expires. While using a married name in notarizations, the notary shall sign the married name on the line that is designated for the notary public's signature on the notarial certificate. Immediately below that signature, the notary public shall sign the name under which the notary was commissioned. The notary public shall notify the secretary of state's office within thirty days of the notary's change of surname due to marriage. Failure to notify the Secretary of State of this change of surname is evidence of the notary's failure to fully and faithfully discharge the duties of a notary.
- B. Except as prescribed by subsection A, a notary public whose name changes shall apply for a new notary commission under the new name.

§ 41-328. Prohibited conduct; incomplete documents; signatures of relatives

- A.** A notary public shall not perform a jurat on a document that is incomplete. If a notary public is presented with a document that the notary knows from experience to be incomplete or if the document on its face is incomplete the notary public shall refuse to perform the jurat.
- B.** A notary public is an impartial witness and shall not notarize the notary's own signature or the signatures of any person who is related by marriage or adoption.

§ 41-329. Notary public title; foreign language; violation; classification

- A.** Every notary public who is not an attorney who advertises, by any written or verbal means, the services of a notary public in a language other than English, with the exception of a single desk plaque, shall post or otherwise include with the advertisement a notice in English and the other language. The notice shall be of conspicuous size, if in writing, and shall state: "I am not an attorney and cannot give legal advice about immigration or any other legal matters."
- B.** A notary public who violates subsection A of this section is guilty of a class 6 felony and the notary public's commission shall be permanently revoked.

§ 41-330. Grounds for refusal, revocation or suspension of commission

- A.** The secretary of state may refuse to appoint any person as a notary public or may revoke or suspend the commission of any notary public for any of the following reasons:
 - 1. Substantial and material misstatement or omission in the application for a notary public commission that is submitted to the secretary of state.
 - 2. Conviction of a felony unless restored to civil rights, or of a lesser offense involving moral turpitude or of a nature that is incompatible with the duties of a notary public. A conviction after a plea of no contest is deemed to be a conviction for purposes of this paragraph.
 - 3. Revocation, suspension, restriction or denial of a professional license if that action was for misconduct, dishonesty or any cause that substantially relates to the duties or responsibilities of a notary public.
 - 4. Failure to discharge fully and faithfully any of the duties or responsibilities required of a notary public.
 - 5. The use of false or misleading advertising in which the notary public has represented that the notary public has duties, rights or privileges that the notary public does not possess by law.
 - 6. Charging more than the fees authorized by rule.
 - 7. The commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another person or to substantially injure another person.
 - 8. Failure to complete the acknowledgment or jurat at the time the notary's signature and seal are affixed to the document.
 - 9. Failure to administer the oath or affirmation required at the time of performing a jurat for an individual.
 - 10. Execution of any notarial certificate by the notary public containing a statement known by the notary public to be false.
 - 11. The return for insufficient funds or any other reason for nonpayment of a check issued for application fees to the secretary of state or the bond filing fees to the clerk of the superior court in the applicant's county of residence.
 - 12. Notarizing a document that contains no notarial certificate.
- B.** If an application is denied the secretary of state shall notify the applicant within thirty days after receipt of the application and shall state the reasons for the denial.
- C.** The secretary of state may suspend the commission of a notary for at least thirty days and for not more than one hundred eighty days.

- D. If a person has had a notary commission in this state revoked, the secretary of state may refuse to appoint the person as a notary public for four years from the date of the revocation.
- E. On revocation or suspension of a notary public's commission, the secretary of state shall give notice to the notary public and shall provide the person with notice of the opportunity for a hearing on the revocation or suspension pursuant to chapter 6, article 10 of this title. The revocation or suspension of a notary public commission is an appealable agency action.

§ 41-331. Complaints; investigations

- A. Any person may make a complaint to the office of the secretary of state regarding a notary public. The secretary of state shall receive any complaints and shall provide notice of those complaints to the office of the attorney general who shall investigate and take action on all complaints involving allegations of any violations of this article.
- B. A notary's failure to respond to an investigation is a failure by the notary to fully and faithfully discharge the responsibilities and duties of a notary.

§ 41-332. Secretary of state; deputy county clerk; county clerk functions

Notwithstanding any other provision of this article, if the clerks of the superior court in all counties and the secretary of state agree to centralize the functions of clerks of the superior court prescribed in this article in the office of the secretary of state, each clerk of the superior court shall deputize the secretary of state and the secretary's designees as deputy county clerks of the superior court solely for the performance of the superior court clerk's functions prescribed in this article and the clerks of the superior court and the secretary of state shall enter into intergovernmental agreements pursuant to title 11, chapter 7, article 3 to address issues relating to the centralization of functions.

TITLE 10. CORPORATIONS AND ASSOCIATIONS

CHAPTER 19. CORPORATIONS AND ASSOCIATIONS NOT FOR PROFIT

ARTICLE 2. ELECTRIC COOPERATIVE NON PROFIT MEMBERSHIP CORPORATIONS

§ 10-2082. Taking of acknowledgments by officer of member

A person authorized to take acknowledgments under the laws of this state shall not be disqualified from taking acknowledgments of instruments executed in favor of a cooperative or to which it is a party, by reason of being an officer, director or member of the cooperative.

TITLE 12. COURTS AND CIVIL PROCEEDINGS

CHAPTER 2. JUDICIAL OFFICERS AND EMPLOYEES

ARTICLE 8. CLERK OF THE SUPERIOR COURT

§ 12-284. Fees

- A. Except as otherwise provided by law, the clerk of the superior court shall receive fees classified as follows:

Class	Description	Fee
E	<u>Minimum clerk fee</u>	
	Filing oath and bond of notary public	18.00
	Notary public certificate	18.00
G	<u>Special fees</u>	
	Notary services	5.00

TITLE 14. DECEDENTS' ESTATES AND PROTECTIVE PROCEEDINGS
CHAPTER 5. PROTECTION OF PERSONS UNDER DISABILITY AND THEIR PROPERTY
ARTICLE 5. POWERS OF ATTORNEY

§ 14-5501. Durable power of attorney; creation; validity

- A.** A durable power of attorney is a written instrument by which a principal designates another person as the principal's agent. The instrument shall contain words that demonstrate the principal's intent that the authority conferred in the durable power of attorney may be exercised:
1. If the principal is subsequently disabled or incapacitated.
 2. Regardless of how much time has elapsed, unless the instrument states a definite termination time.
- B.** The written instrument may demonstrate the principal's intent required by subsection A of this section using either of the following statements or similar language:
1. "This power of attorney is not affected by subsequent disability or incapacity of the principal or lapse of time."
 2. "This power of attorney is effective on the disability or incapacity of the principal."
- C.** A power of attorney executed in another jurisdiction of the United States is valid in this state if the power of attorney was validly executed in the jurisdiction in which it was created.
- D.** From and after August 1, 1998, except as provided in section 28-370, an adult, known as the principal, may designate another adult, known as the agent, to make financial decisions on the principal's behalf by executing a written power of attorney that satisfies all of the following requirements:
1. Contains language that clearly indicates that the principal intends to create a power of attorney and clearly identifies the agent.
 2. Is signed or marked by the principal or signed in the principal's name by some other individual in the principal's conscious presence and at the principal's direction.
 3. Is witnessed by a person other than the agent, the agent's spouse, the agent's children or the notary public.
 4. Is executed and attested by its acknowledgment by the principal and by an affidavit of the witness before notary public and evidenced by the notary public's certificate, under official seal, in substantially the following form:
I, _____, the principal, sign my name to this power of attorney this _____ day of _____, and being first duly sworn, do declare to the undersigned authority that I sign and execute this instrument as my power of attorney and that I sign it willingly, or willingly direct another to sign for me, that I execute it as my free and voluntary act for the purposes expressed in the power of attorney and that I am eighteen years of age or older, of sound mind and under no constraint or undue influence.

Principal

I, _____, the witness, sign my name to the foregoing power of attorney being first duly sworn and do declare to the undersigned authority that the principal signs and executes this instrument as his/her power of attorney and that he/she signs it willingly, or will ingly directs another to sign for him/her, and that I, in the presence and hearing of the principal, sign this power of attorney as witness to the principal's signing and that to the best of my knowledge the principal is eighteen years of age or older, of sound mind and under no constraint or undue influence.

Witness

The State of _____

County of _____

Subscribed, sworn to and acknowledged before me by _____, the principal, and subscribed and sworn to before me by _____, the witness, this _____ day of _____.

(signed) _____

(notary public)

- E. The execution requirements for the creation of a power of attorney provided in subsection D of this section do not apply if the principal creating the power of attorney is:
1. A person other than a natural person.
 2. Any person, if the power of attorney to be created is a power coupled with an interest. For the purposes of this paragraph, "power coupled with an interest" means a power that forms a part of a contract and is security for money or for the performance of a valuable act.

TITLE 16. ELECTIONS AND ELECTORS

CHAPTER 5. POLITICAL PARTIES

ARTICLE 2. PARTY ORGANIZATION AND GOVERNMENT

§ 16-828. Proxies

- A. A political party may choose, through its bylaws, to allow the use of proxies at its meetings, in which event the following shall be minimum regulations:
1. No proxy shall be given by a member of the state committee for use at a meeting of the committee except to a qualified elector of the county where the member resides.
 2. No proxy shall be given by a member of the county committee for use at a meeting of the committee except to a qualified elector of the precinct where the member resides.
- B. The duration of any proxy so given shall extend only for the length of the meeting for which it is given.
- C. Every proxy shall be attested by a notary public or two witnesses.

TITLE 26. MILITARY AFFAIRS AND EMERGENCY MANAGEMENT

CHAPTER 1. EMERGENCY AND MILITARY AFFAIRS

ARTICLE 3. NATIONAL GUARD

§ 26-160. Oaths or affirmations

Oaths or affirmations required in the military service shall be administered by any commissioned officer, or other officer authorized to administer oaths, and no charge shall be made therefor.

TITLE 33. PROPERTY

CHAPTER 4. CONVEYANCES AND DEEDS

ARTICLE 5. UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT

§ 33-501. Recognition of notarial acts performed outside this state

For purposes of this article, "notarial acts" means acts which the laws and regulations of this state authorize notaries public of this state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this state for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized

pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this state:

1. A notary public authorized to perform notarial acts in the place in which the act is performed.
2. A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed.
3. An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed.
4. A commissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for one of the following or his dependents: a merchant seaman of the United States, a member of the armed forces of the United States, or any other person serving with or accompanying the armed forces of the United States.
5. Any other person authorized to perform notarial acts in the place in which the act is performed.

§ 33-502. Authentication of authority of officer

- A.** If the notarial act is performed by any of the persons described in § 33-501, paragraphs 1 to 4, inclusive, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank, or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.
- B.** If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if:
1. Either a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the act, or
 2. The official seal of the person performing the notarial act is affixed to the document, or
 3. The title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.
- C.** If the notarial act is performed by a person other than one described in subsections A and B, there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to his authority to perform the notarial act.
- D.** The signature and title of the person performing the act are prima facie evidence that he is a person with the designated title and that the signature is genuine.

§ 33-503. Certificate of person taking acknowledgment

The person taking an acknowledgment shall certify that:

1. The person acknowledging appeared before him and acknowledged he executed the instrument, and
2. The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

§ 33-504. Recognition of certificate of acknowledgment

The form of a certificate of acknowledgment used by a person whose authority is recognized under § 33-501 shall be accepted in this state if:

1. The certificate is in a form prescribed by the laws or regulations of this state, or
2. The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken, or
3. The certificate contains the words “acknowledged before me”, or their substantial equivalent.

§ 33-505. Certificate of acknowledgment

The words “acknowledged before me” mean that:

1. The person acknowledging appeared before the person taking the acknowledgment.
2. He acknowledged he had executed the instrument.
3. In the case of:
 - (a) A natural person, he executed the instrument for the purposes therein stated.
 - (b) A corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the corporation by proper authority, and the instrument was the act of the corporation for the purpose therein stated.
 - (c) A partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper authority and he executed the instrument as the act of the partnership for the purposes therein stated.
 - (d) A person acknowledging as principal by an attorney in fact, he executed the instrument by proper authority as the act of the principal for the purposes therein stated.
 - (e) A person acknowledging as a public officer, trustee, personal representative, administrator, guardian, conservator or other representative, he signed the instrument by proper authority and he executed the instrument in the capacity and for the purposes therein stated.
4. The person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

33-506. Short forms of acknowledgment

The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law of this state. The forms shall be known as “Statutory Short Forms of Acknowledgment” and may be referred to by that name. The authorization of the following forms does not preclude the use of other forms:

1. For an individual acting in his own right:
State of _____
County of _____
The foregoing instrument was acknowledged before me this (Date) by (Name of person acknowledged.)
(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)
2. For a corporation:
State of _____
County of _____
The foregoing instrument was acknowledged before me this (Date) by (Name of officer or agent, title of officer or agent) of (Name of corporation acknowledging) a (State or place of incorporation) corporation, on behalf of the corporation.
(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)
3. For a partnership:
State of _____
County of _____
The foregoing instrument was acknowledged before me this (Date) by (Name of acknowledging partner or agent), partner (or agent) on behalf of (Name of partnership) a partnership.
(Signature of person taking acknowledgment)

(Title or rank)
(Serial number, if any)

4. For an individual acting as principal by an attorney in fact:

State of _____
County of _____

The foregoing instrument was acknowledged before me this (Date) by (Name of attorney in fact) as attorney in fact on behalf of (Name of principal).

(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)

5. By any public officer, trustee, or personal representative:

State of _____
County of _____

The foregoing instrument was acknowledged before me this (Date) by (Name and title of position).

(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)

§ 33-507. Acknowledgments not affected by this article

A notarial act performed prior to the effective date of this article is not affected by this article. This article provides an additional method of proving notarial acts. Nothing in this article diminishes or invalidates the recognition accorded to notarial acts by other laws or regulations of this state.

§ 33-508. Uniformity of interpretation

This article shall be so interpreted as to make uniform the laws of those states which enact it.

TITLE 33. PROPERTY
CHAPTER 4. CONVEYANCES AND DEEDS
ARTICLE 6. ACKNOWLEDGMENTS

§ 33-511. Acknowledgment within the state

The acknowledgment of any instrument may be made in this state before:

1. A judge of a court of record.
2. A clerk or deputy clerk of a court having a seal.
3. A recorder of deeds.
4. A notary public.
5. A justice of the peace.
6. A county recorder.

§ 33-512. Acknowledgment by a married woman

An acknowledgment of a married woman may be made in the same form as though she were unmarried.

§ 33-513. Action to correct certificate of acknowledgment

When an acknowledgment is properly made, but defectively certified, any party interested may bring an action in the superior court to obtain a judgment correcting the certificate.

TITLE 38. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 2. QUALIFICATION AND TENURE
ARTICLE 4. OATH OF OFFICE

§ 38-233. Filing oaths of record

A. The official oaths of state elective officers shall be filed of record in the office of the

secretary of state. The official oaths of all other state officers and employees shall be filed of record in the office of the employing state board, commission or agency.

- B. The official oaths of elective county and elective precinct officers shall be filed of record in the office of the county recorder, except the oath of the recorder, which shall be filed with the clerk of the board of supervisors. The official oaths of notaries public shall be endorsed upon their bond and filed with the clerk of the superior court of that county to which they are appointed. The official oaths of all other county and precinct officers and employees shall be filed of record in the office of the employing county or precinct board, commission or agency.
- C. The official oaths of all city, town or municipal corporation officers or employees shall be filed of record in the respective office of the employing board, commission or agency of the cities, towns and municipal corporations.
- D. The official oaths of all officers and employees of all school districts shall be filed of record in the school district office.
- E. The official oaths of all officers and employees of each public educational institution except school districts shall be filed of record in the respective offices of said public educational institutions.
- F. The official oath or affirmation required to be filed of record shall be maintained as an official record for a period of five years after the termination of the employment for which the oath was filed.

TITLE 38. PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 2. QUALIFICATION AND TENURE

ARTICLE 6. VACANCY IN OFFICE

§ 38-291. Vacancy defined

An office shall be deemed vacant from and after the occurrence of any of the following events before the expiration of a term of office:

1. Death of the person holding the office.
2. Insanity of the person holding the office, when judicially determined.
3. Resignation of the person holding the office and the lawful acceptance of the resignation.
4. Removal from office of the person holding the office.
5. If the office is elective, the person holding the office ceasing to be a resident of the state, or, if the office is local, or from a legislative or congressional district, the person holding the office ceasing to be a resident of the district, county, city, town or precinct for which he was elected, or within which the duties of his office are required to be discharged.
6. Absence from the state by the person holding the office, without permission of the legislature, beyond the period of three consecutive months.
7. The person holding the office ceasing to discharge the duties of office for the period of three consecutive months.
8. Conviction of the person holding the office of a **felony** or an offense involving a violation of his official duties.
9. Failure of the person elected or appointed to such office to file his official oath or bond within the time prescribed by law.
10. Decision of a competent tribunal declaring void the election or appointment of the person elected or appointed to the office.
11. Failure of a person to be elected or appointed to the office.
12. Violation of section 38-296 by the person holding the office.

§ 38-294. Resignations

Resignations shall be in writing, and made as follows:

1. By members of the legislature, to the presiding officer of the body of which he is a

- member, who shall immediately transmit the resignation to the governor.
- 2. By state officers, notaries public and officers of the militia, to the governor.
- 3. By other officers commissioned by the governor, to the governor.
- 4. By county officers, to the chairman of the board of supervisors of their county.
- 5. By the chairman of the board of supervisors, to the county recorder of the county.
- 6. In cases not otherwise provided for, by filing the resignation in the office of the secretary of state.
- 7. By appointive officers, to the body or officer which appointed them, unless otherwise provided.

Editor's Note: Because a notary public's bond is filed with the county of the notary's residence, a notary who resigns should also give written notice to the clerk of the superior court in the notary's county of residence.

TITLE 38. PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 3. CONDUCT OF OFFICE

ARTICLE 2. FEES

§ 38-412. Posting schedule of fees

Recorders, clerks of the superior courts, sheriffs, justices of the peace, constables and notaries public shall keep posted at all times in a conspicuous place in their respective offices a complete list of the fees they are allowed to charge.

§ 38-413. Charging excessive fees; classification

- A. If an officer demands and receives a higher fee than prescribed by law, or any fee not so allowed, such officer shall be liable to the party aggrieved in an amount four times the fee unlawfully demanded and received by him.
- B. An officer who violates this section is guilty of a class 5 felony.

TITLE 38. PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 3. CONDUCT OF OFFICE

ARTICLE 3. RECORDS

§ 38-423. Making or giving false certificate; classification

A public officer authorized by law to make or give any certificate or other writing, who makes and delivers as true such a certificate or writing containing a statement which he knows is false, is guilty of a class 6 felony.

TITLE 39. PUBLIC RECORDS, PRINTING AND NOTICES

CHAPTER 1. PUBLIC NOTICES

ARTICLE 2. SEARCHES AND COPIES

§ 39-122. Free searches for and copies of public records to be used in claims against United States; liability for noncompliance

- A. No state, county or city, or any officer of board thereof shall demand or receive a fee or compensation for issuing certified copies of public records or for making search for them, when they are to be used in connection with a claim for a pension, allotment, allowance, compensation, insurance or other benefits which is to be presented to the United States or a bureau or department thereof.
- B. Notaries public shall not charge for an acknowledgment to a document which is to be so filed or presented.
- C. The services specified in subsections A and B shall be rendered on request of an official of the United States, a claimant, his guardian or attorney. For each failure or refusal so to do,

the officer so failing shall be liable on his official bond.

TITLE 39. PUBLIC RECORDS, PRINTING AND NOTICES

CHAPTER 1. PUBLIC NOTICES

ARTICLE 4. FALSE INSTRUMENTS AND RECORDS

§ 39-161. Presentment of false instrument for filing; classification

A person who acknowledges, certifies, notarizes, procures or offers to be filed, registered or recorded in a public office in this state an instrument he knows to be false or forged, which, if genuine, could be filed, registered or recorded under any law of this state or the United States, or in compliance with established procedure is guilty of a class 6 felony. As used in this section "instrument" includes a written instrument as defined in § 13-2001.

TITLE 41. STATE GOVERNMENT

CHAPTER 1. EXECUTIVE OFFICERS

ARTICLE 2. THE SECRETARY OF STATE AND THE DEPARTMENT OF STATE

§ 41-126. Fees; expedited services

- A.** The secretary of state shall receive the following fees:
1. Making a copy of any document on file in his office, no more than ten cents for each page or partial page.
 2. Filing and recording each official bond and transmitting a commission for a notary public, no more than twenty five dollars.
 10. Filing, recording or certifying any other document not specified in this section, no more than three dollars.

TITLE 42. TAXATION

CHAPTER 11. PROPERTY TAX

ARTICLE 4. QUALIFYING FOR EXEMPTIONS

§ 42-11152. Affidavit; false statements.

- A.** Except as provided in sections 42-11109 and 42-11110 and except for property described in sections 42-11125 and 42-11127, a person who claims exemption from taxation under article IX, section 2, 2.1 or 2.2, Constitution of Arizona, shall:
1. When initially claiming the exemption, appear before the county assessor to make an affidavit as to the person's eligibility. If a personal appearance before the county assessor would create a severe hardship, the county assessor may arrange a mutually satisfactory meeting place to make an affidavit as to the person's eligibility.
 2. When claiming the exemption in subsequent years, appear before the county assessor or a notary public to make an affidavit as to the person's eligibility.
 3. Fully answer all questions on the eligibility form or otherwise required by the assessor for that purpose.
- B.** At the assessor's discretion, the assessor may require additional proof of the facts stated by the person before allowing an exemption.
- C.** A person who is in the United States military service and who is absent from this state or who is confined in a veterans' hospital or another licensed hospital may make the required affidavit in the presence of any officer who is authorized to administer oaths on a form obtained from the county assessor.

D. A false statement that is made or sworn to in the affidavit is perjury.

RULES OF CIVIL PROCEDURE

Rule 44. Proof of records

44(a) Records of public officials. The records required to be made and kept by a public officer of the state, county, municipality, or any body politic, and copies thereof certified under the hand and seal of the public officer having custody of such records, shall be received in evidence as prima facie evidence of the facts therein stated.

44(c). Proof of records of notaries public. Declarations and protests made and acknowledgments taken by notaries public, and certified copies of their records and official papers, shall be received in evidence as prima facie evidence of the facts therein stated.

**RULES OF THE
OFFICE OF THE SECRETARY OF STATE
TITLE 2. ADMINISTRATION
CHAPTER 12. SECRETARY OF STATE
ARTICLE 11. NOTARY PUBLIC BONDS AND FEES**

Section

- R2-12-1101. Definitions
- R2-12-1102. Notary Public Fees
- R2-12-1103. Notary Public Bonds

ARTICLE 11. NOTARY PUBLIC BONDS AND FEES

R2-12-1101. Definitions

The following definitions shall apply in this Article unless the context otherwise requires:

“Acknowledgment” means the same as defined in A.R.S. § 41-311(1).

“Bond” means a surety bond to the state, with sureties approved by the clerk of the superior court in the county in which the individual is being commissioned as a notary public.

“Copy certification” means the same as defined in A.R.S. § 41-311(3).

“Credible person” means a person used to identify a signer when the signer does not have other satisfactory evidence of identity as specified in A.R.S. § 41-311(11).

“Jurat” means the same as defined in A.R.S. § 41- 311(6).

“Oath” or “affirmation” means the same as defined in A.R.S. § 41-311(10).

“Satisfactory evidence of identity” means the same as defined in A.R.S. § 41-311(11).

R2-12-1102. Notary Public Fees

Notaries public may charge the following fees:

1. For acknowledgments, \$2 per signature;
2. For jurats, \$2 per signature;
3. For copy certifications, \$2 per page certified;
4. For oaths or affirmations without a signature, \$2.

R2-12-1103. Notary Public Bonds

- A.** Notaries public shall purchase a bond in the amount of \$5,000 before being commissioned as a notary public. The original bond shall be filed with the clerk of the superior court in the applicant’s county of residence. A copy of the bond shall be filed with the applicant’s application form submitted to the Secretary of State’s Office.
- B.** The bond shall contain, on its face, the oath of office for the notary public as specified in A.R.S. § 38-233(B). This oath shall be as specified in A.R.S. § 38-231. The notary shall endorse the oath on the face of the bond, immediately below the oath, by signing the notary’s name under which the person has applied to be commissioned as a notary and exactly as the name appears on the notary application form filed with the Secretary of State’s Office.

ATTORNEY GENERAL OPINIONS

Opinion I97-015 (R97-040), dated December 30, 1997

The Attorney General has held that the Secretary of State has the authority to revoke a notary public's commission, or to seek to remove a notary public from office, for cause as specified in State law, after notice and an opportunity for a hearing. The Legislature may, by statute, expressly grant the Secretary of State additional authority to regulate and remove notaries public from office.

Opinion I97-011 (R97-033), dated August 15, 1997

The Attorney General has held that notarial acts performed in Arizona under the authority of federal law for members of the armed forces and related eligible recipients of federal legal assistance are valid in Arizona.

To qualify for an Arizona Notary Public Commission, you:

- **Must be an Arizona Resident.**
- **Must be 18 years of age or older.**
- **Must not be a convicted felon.**
- **Must not have had a notary commission revoked within the previous four years.**

DO NOT APPLY if you fail to meet any of the above requirements.

NOTARY PUBLIC APPLICATION PROCEDURES

STEP 1. Complete the Notary Public Application as follows:

- Print your name exactly as you want your notary commission to be issued.
- **Show your middle initial or name only if you intend to use it when signing as a notary public.**
- List the physical location of your residence because you are commissioned from your home address.
- **Fill in all the blanks** on the form and sign the application exactly as your name is printed.
- Your signature must be an **original signature** and must be **notarized** on the application you submit to the Secretary of State's Office.

STEP 2. Purchase a 4-year \$5,000 Notary bond in duplicate form from an insurance agent.

- The bond must show your name **printed and signed exactly as it is shown on the application.**
- The bond must indicate the county in which you reside and the effective and expiration dates of the bond. Remember, the expiration date is always one day less than the effective date four years later.
- The bond must be signed in 2 places. Your name must be identical on the application and the bond.
- Your signature must be properly notarized with an ink notary seal.
- Both the Arizona resident bonding agent and attorney-in-fact must sign the bond, if indicated.

STEP 3. Filing procedures.

Mail to the Secretary of State – Notary Division, 1700 W. Washington, 7th Floor, Phoenix, AZ 85007:

1. The original application with an original notarized signature.
2. The duplicate copy of the bond, if you want the Secretary of State to match the dates. Please remember, your bond cannot be issued more than 60 days before or 30 days after the Secretary of State commissions you as a notary.
3. Check or money order in the amount of \$25.00 made payable to the Secretary of State.

Send to the Clerk of the Superior Court of the county in which you reside

(Counties are listed on the following page):

1. The original notarized bond with original signatures.
2. Check or money order in the amount of \$18.00 made payable to Clerk of the Superior Court.

DO NOT SEND YOUR NOTARY APPLICATION TO THE CLERK OF THE SUPERIOR COURT.

STEP 4. Official Notary Seal.

- Order a notary seal (stamp) from a stationery store, office supply, or insurance company **AFTER** you receive your commission certificate from the Clerk of the Superior Court of your county of residence.
- You must use a rubber stamp as your official seal. You may affix an embosser in addition to the rubber stamp, but the rubber stamp and dark ink are required.
- The rubber stamp must contain five things:

1. The words “NOTARY PUBLIC”;
2. The name of the county in which you are commissioned;
3. Your name exactly as it appears on the bond and the application form;
4. The expiration date of your commission; and
5. The Great Seal of Arizona.

THE CLERK OF THE SUPERIOR COURT IN THE COUNTY IN WHICH YOU ARE COMMISSIONED WILL SEND YOU YOUR COMMISSION CERTIFICATE DESIGNATING YOU AS AN AUTHORIZED NOTARY PUBLIC.

If you have any questions regarding these procedures, contact the Secretary of State’s Office, (602) 542-4758, for assistance.

ARIZONA CLERKS OF THE SUPERIOR COURT

Clerk of the Superior Court - APACHE Co. Box 365 St. Johns, AZ 85936 (928) 337-7550	Clerk of the Superior Court - MOHAVE Co. P.O. Box 7000 Kingman, AZ 86402 (928) 753-0713, Ext. 4036
Clerk of the Superior Court – COCHISE Co. P.O Box CK Bisbee, AZ 85603 (520) 432-8570	Clerk of the Superior Court - NAVAJO Co. P. O. Box 668 Holbrook, AZ 86025 (928) 524-4188
Clerk of the Superior Court – COCONINO Co. 200 N. San Francisco Flagstaff, AZ 86001 (928) 779-6728	Clerk of the Superior Court - PIMA Co. 110 W. Congress #131-A Tucson, AZ 85701 (520) 740-3282
Clerk of the Superior Court - GILA Co. 1400 E. Ash St. Globe, AZ 85501 (928) 425-3231 Ext. 8553	Clerk of the Superior Court - PINAL Co. P.O. Box 2730 Florence, AZ 85232 (520) 868-6296
Clerk of the Superior Court - GRAHAM Co. 800 Main St. Safford, AZ 85546 (928) 428-3100	Clerk of the Superior Court – SANTA CRUZ Co. P.O. Box 1265 Nogales, AZ 85628 (520) 375-7700
Clerk of the Superior Court - GREENLEE Co. P.O. Box 1027 Clifton, AZ 85533 (928) 865-4242	Clerk Of The Superior Court - YAVAPAI CO. 120 S. Cortez Prescott, AZ 86301 (928) 771-3312
Clerk of the Superior Court - LA PAZ Co. 1316 Kofa Ave., Ste. 607 Parker, AZ 85344 (928) 669-6131	Clerk of the Superior Court - YUMA Co. 168 S. Second Ave., Ste. B Yuma, AZ 85364 (928) 329-2162
Clerk of the Superior Court - MARICOPA Co. 201 W. Jefferson Phoenix, AZ 85003 (602) 506-7913	



State of Arizona - NOTARY PUBLIC APPLICATION

Secretary of State – Attn: Notary Section, 7th Floor
1700 W. Washington Street, Phoenix, Arizona 85007

FEE \$25.00

PLEASE PRINT & FILL OUT YOUR APPLICATION COMPLETELY.

An incomplete application will delay your notary commission.

Make checks payable to: SECRETARY OF STATE

PLEASE NOTE! The issue date on your bond must be no more than 60 days before or 30 days after the day your new commission begins. The expiration date on your bond must be one day less than the effective date. The application process takes approximately six weeks.

Check One

☐ **New Appointment**

☐ **Reappointment (If reappointment, include on the line below the full name under which you were last commissioned as an Arizona notary.)**

Commission #

PLEASE DO NOT LEAVE ANY BLANKS. RESPOND WITH EITHER "N/A" OR "NONE" WHEN APPLICABLE, OTHERWISE APPLICATION WILL BE REJECTED

Last Name	First Name	Middle (If Used)	Your social security number	
Mailing Address		City	State	Zip Code
Home (Physical) Address		City	State	Zip Code
County of Residence		Home Phone (Include Area Code)		
Business Name				

Business Address (A BUSINESS ADDRESS IS REQUIRED AND IS A PUBLIC RECORD)		<input type="checkbox"/> Male <input type="checkbox"/> Female	
Business Phone (include area code)	City	State	Zip Code

Please answer the following questions.	YES	NO
1. Have you ever been convicted of a felony or a lesser offense involving moral turpitude or of a nature that is incompatible with the duties of a notary public? If the answer to #1 is "Yes," have you had your civil right restored? If "yes", you must provide us with proof of the restoration of your civil rights.	<input type="checkbox"/>	<input type="checkbox"/>
2. Have you ever had a professional license revoked, suspended, restricted, or denied for misconduct, dishonesty, or any cause that substantially relates to the duties or responsibilities of a notary public?	<input type="checkbox"/>	<input type="checkbox"/>
3. Have you ever had a notary commission revoked, suspended, restricted, or denied in this state or any other jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>
4. Are you 18 years of age or older?	<input type="checkbox"/>	<input type="checkbox"/>
5. Are you an Arizona resident, claiming your Arizona residence as your primary residence for state and federal tax purposes?	<input type="checkbox"/>	<input type="checkbox"/>
6. Have you been commissioned as a notary public in any other state or jurisdiction? (If "yes", please specify the location(s) to the right:	<input type="checkbox"/>	<input type="checkbox"/>

I hereby certify that the above information is true and correct, that I have read and understand and swear to uphold the laws pertaining to notaries public.	Signature of Applicant: (Your name must be entered and signed exactly the same on this application as on your bond.)
--	---

State of Arizona)
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day
of _____, _____.

(seal)

Notary Public

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Notary Public Address/Name Change Form

Secretary of State, Notary Section
1700 W. Washington, 7th Floor
Phoenix, AZ 85007-2888

Notary is commissioned as: _____
(Print your name as it appears on your commission certificate)

Date of Address/Name Change: _____

Surname Changed to: _____

Old Address: _____

New Address: _____

Commission Number or Social Security Number: _____

Signature of Notary _____

According to A.R.S. § 41-327

A notary public who has a change of surname due to marriage may continue to use the official seal and commission in the notary public's prior name until that commission expires. While using a married name in notarizations, the notary shall sign the married name on the line that is designated for the notary public's signature on the notarial certificate. The notary public shall sign the name under which the notary was commissioned immediately below the married name's signature. The notary public shall notify the Secretary of State's Office within 30 days of the notary's change of surname due to marriage.

Except as prescribed by the paragraph above, a notary public whose name changes for any reason shall apply for a new notary commission under the new name.

Mail this completed form to the address shown at the top of the page, or fax to (602) 542-4366, or bring the form to the Secretary of State's Customer Service Center, 14 North 18th Ave., Phoenix, Arizona.

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To use this index, look up the term. If that term has one or more three-digit numbers following it, those numbers indicate question numbers in sections 1-14 of this Manual. If the term has one or more numbers following it that are preceded by the section symbol (§), those numbers indicate a section of the statutes which are found in section 8 of this Manual.

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